

APPENDIX SECTION 251(C)(3) UNES (SECTION 251(C)(3) PROVISION OF ACCESS TO UNBUNDLED NETWORK ELEMENTS)

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APPENDIX SECTION 251(C)(3) UNES (SECTION 251(C)(3) PROVISION OF ACCESS TO UNBUNDLED NETWORK ELEMENTS)

1. INTRODUCTION

- 1.1 This Appendix Section 251(c)(3) UNES sets forth the terms and conditions pursuant to which the applicable SBC Communications Inc. (SBC)-owned Incumbent Local Exchange Carrier (ILEC) will furnish CLEC with access to Section 251(c)(3) unbundled network elements ("UNES") as specifically defined in this Appendix Section 251(c)(3) UNES for the provision by CLEC of a Telecommunications Service ((Act, Section 251(c)(3)). For information regarding deposit, billing, payment, non-payment, disconnect, and dispute resolution, see the General Terms and Conditions of this Agreement.
- 1.2 **SBC Communications Inc. (SBC)** Wisconsin Bell, Inc. d/b/a SBC Wisconsin.
- 1.3 **SBC WISCONSIN** - As used herein, **SBC WISCONSIN** means Wisconsin Bell, Inc. d/b/a SBC Wisconsin, the applicable SBC-owned ILEC doing business in Wisconsin.
- 1.4 The Prices at which **SBC WISCONSIN** agrees to provide UNES are contained in the applicable Appendix Pricing and/or the applicable Commissioned ordered tariff where stated.

2. TERMS AND CONDITIONS

- 2.1 **Section 251(c)(3) UNES and Declassification.** This Agreement sets forth the terms and conditions pursuant to which **SBC WISCONSIN** will provide CLEC with access to unbundled network elements under Section 251(c)(3) of the Act in **SBC WISCONSIN**'s incumbent local exchange areas for the provision of Telecommunications Services by CLEC; provided, however, that notwithstanding any other provision of the Agreement, **SBC WISCONSIN** shall be obligated to provide UNES only to the extent required by Section 251(c)(3) of the Act, as determined by Section 251(c)(3) and effective FCC rules and associated Section 251(c)(3) and effective FCC and judicial orders, and may decline to provide UNES to the extent that provision of the UNE(s) is not required by Section 251(c)(3) of the Act, as determined by Section 251(c)(3) and effective FCC rules and associated Section 251(c)(3) and effective FCC and judicial orders. UNES that **SBC WISCONSIN** is required to provide pursuant to Section 251(c)(3) of the Act, as determined by Section 251(c)(3) and effective FCC rules and associated Section 251(c)(3) and effective FCC and judicial orders shall be referred to in this Agreement as "**Section 251(c)(3) UNES.**"
 - 2.1.1 A network element, including a network element referred to as a Section 251(c)(3) UNE under this Agreement, will cease to be a Section 251(c)(3) UNE under this Agreement if it is no longer required by Section 251(c)(3) of the Act, as determined by Section 251(c)(3) and effective FCC rules and associated Section 251(c)(3) and effective FCC and judicial orders. Without limitation, a Section 251(c)(3) UNE that has ceased to be a Section 251(c)(3) UNE may also be referred to as "**Declassified.**"
 - 2.1.2 Without limitation, a network element, including a network element referred to as a Section 251(c)(3) UNE under this Agreement is Declassified upon or by (a) the issuance of a legally effective finding by a court or regulatory agency acting within its Section 251(c)(3) authority that requesting Telecommunications Carriers are not impaired without access to a particular network element on an unbundled basis; or (b) the issuance of any valid law, order or rule by the Congress, FCC or a judicial body stating that an incumbent LEC is not required, or is no longer required, to provide a network element on an unbundled basis pursuant to Section 251(c)(3) of the Act; or (c) the absence, by vacatur or otherwise, of a legally effective FCC rule requiring the provision of the network element on an unbundled basis under Section 251(c)(3). By way of example only, a network element can cease to be a Section 251(c)(3) UNE or be Declassified generally, or on an element-specific, route-specific or geographically-specific basis or on a class of elements basis. Under any scenario, Section 2.5 "Transition Procedure" shall apply.

- 2.1.3 It is the Parties' intent that only Section 251(c)(3) UNEs shall be available under this Agreement; accordingly, if this Agreement requires or appears to require Section 251(c)(3) UNE(s) or unbundling without specifically noting that the UNE(s) or unbundling must be "Section 251(c)(3)," the reference shall be deemed to be a reference to Section 251(c)(3) UNE(s) or Section 251(c)(3) unbundling, as defined in this Section 2.1. If an element is not required to be provided under this Appendix Section 251(c)(3) UNE and/or not described in this Appendix Section 251(c)(3) UNE, it is the Parties' intent that the element is not available under this Agreement, notwithstanding any reference to the element elsewhere in the Agreement, including in any other Appendix, Schedule or in the Pricing Appendix.
- 2.1.4 By way of example only, if terms and conditions of this Agreement state that **SBC WISCONSIN** is required to provide a Section 251(c)(3) UNE or Section 251(c)(3) UNE combination, and that Section 251(c)(3) UNE or the involved Section 251(c)(3) UNE (if a combination) is Declassified or otherwise no longer constitutes a Section 251(c)(3) UNE, then **SBC WISCONSIN** shall not be obligated to provide the item under this Agreement as an unbundled network element, whether alone or in combination with or as part of any other arrangement under the Agreement.
- 2.2 Nothing contained in the Agreement shall be deemed to constitute consent by **SBC WISCONSIN** that any item identified in this Agreement as a UNE, network element or Section 251(c)(3) UNE is a network element or UNE under Section 251(c)(3) of the Act, as determined by Section 251(c)(3) and effective FCC rules and associated Section 251(c)(3) and effective FCC and judicial orders, that **SBC WISCONSIN** is required to provide to CLEC alone, or in combination with other network elements or UNEs (Section 251(c)(3) or otherwise), or commingled with other network elements, UNEs (Section 251(c)(3) or otherwise) or other services or facilities.
- 2.3 The preceding includes without limitation that **SBC WISCONSIN** shall not be obligated to provide combinations (whether considered new, pre-existing or existing) or other arrangements (including, where applicable, Commingled Arrangements involving **SBC WISCONSIN** network elements that do not constitute Section 251(c)(3) UNEs, or where Section 251(c)(3) UNEs are not requested for permissible purposes.
- 2.4 Notwithstanding any other provision of this Agreement or any Amendment to this Agreement, including but not limited to intervening law, change in law or other substantively similar provision in the Agreement or any Amendment, if an element described as an unbundled network element or Section 251(c)(3) UNE in this Agreement is Declassified or is otherwise no longer a Section 251(c)(3) UNE, then the Transition Procedure defined in Section 2.5, below, shall govern.
- 2.5 Transition Procedure for Elements that are Declassified during the Term of the Agreement.
- 2.5.1 The procedure set forth in Section 2.5.2 does not apply to the Declassification events described in Sections 8.3.4.4. (DS1 Loop "Caps"), 8.3.5.4. (DS3 Loop "Caps"), 8.4.1 (Declassification Procedure – DS1), 8.4.2 (Declassification Procedure – DS3), 13.3.5 (DS3 Transport "Caps"), 13.3.6 (DS1 Transport "Caps"), 13.5.2 (DS1 Transport Declassification) and 13.5.3 (DS3 Transport Declassification), which set forth the consequences for Declassification of DS1 and DS3 Loops, DS1 and DS3 Transport and Dark Fiber Transport, where applicable "caps" are met, or where Declassification occurs because Wire Centers/routes meet the criteria set forth in the FCC's TRO Remand Order.
- 2.5.2 **SBC WISCONSIN** shall only be obligated to provide Section 251(c)(3) UNEs under this Agreement. To the extent an element described as a Section 251(c)(3) UNE or an unbundled network element in this Agreement is Declassified or is otherwise no longer a Section 251(c)(3) UNE, such element is no longer required to be provided under this Agreement and CLEC shall cease ordering such element(s) under this Agreement, whether previously provided alone or in combination with or as part of any other arrangement with other Section 251(c)(3) UNEs or other elements or services. Accordingly, in the event one or more elements described as Section 251(c)(3) UNEs or as unbundled network elements in this Agreement is Declassified or is otherwise no longer a Section 251(c)(3) UNE, **SBC WISCONSIN** will provide written notice to CLEC of the Declassification of the element(s) and/or the combination or other arrangement in which the element(s) has been previously provided. During a transitional period of thirty (30) days, or as otherwise provided by

Applicable Law, from the date of such notice, **SBC WISCONSIN** agrees to continue providing such element(s) under the terms of this Agreement. Upon receipt of such written notice, CLEC will cease ordering new elements that are identified as Declassified or as otherwise no longer being a Section 251(c)(3) UNE in the **SBC WISCONSIN** notice letter referenced in this Section 2.5. **SBC WISCONSIN** reserves the right to audit the CLEC orders transmitted to **SBC WISCONSIN** and to the extent that the CLEC has processed orders and such orders are provisioned after said transitional period, such elements are still subject to this Section 2.5, including the options set forth in (a) and (b) below, and **SBC WISCONSIN**'s rights of discontinuance or conversion in the event the options are not accomplished. During said transitional period, the following options are available to CLEC with regard to the element(s) identified in the **SBC WISCONSIN** notice, including the combination or other arrangement in which the element(s) were previously provided:

- (a) CLEC may issue an LSR or ASR, as applicable, to seek disconnection or other discontinuance of the element(s) and/or the combination or other arrangement in which the element(s) were previously provided; or
- (b) **SBC WISCONSIN** and CLEC may agree upon another service arrangement or element (e.g. via a separate agreement at market-based rates or resale), or may agree that an analogous access product or service may be substituted, if available.

Notwithstanding anything to the contrary in this Agreement, including any amendments to this Agreement, at the end of that said transitional period, unless CLEC has submitted a disconnect/discontinuance LSR or ASR, as applicable, under (a) above, and if CLEC and **SBC WISCONSIN** have failed to reach agreement, under (b) above, as to a substitute service arrangement or element, then **SBC WISCONSIN** may, at its sole option, disconnect the element(s), whether previously provided alone or in combination with or as part of any other arrangement, or convert the subject element(s), whether alone or in combination with or as part of any other arrangement to an analogous resale or access service, if available.

- 2.5.3 The provisions set forth in this Section 2.5 "Transition Period" are self-effectuating, and the Parties understand and agree that no amendment shall be required to this Agreement in order for the provisions of this Section 2.5 "Transition Period" to be implemented or effective as provided above. Further, Section 2.5 "Transition Period" governs the situation where an unbundled network element or Section 251(c)(3) UNE under this Agreement is Declassified or is otherwise no longer a Section 251(c)(3) UNE, even where the Agreement may already include an intervening law, change in law or other substantively similar provision. The rights and obligations set forth in Section 2.5, above, apply in addition to any other rights and obligations that may be created by such intervening law, change in law or other substantively similar provision.
- 2.5.4 Notwithstanding anything in this Agreement or in any Amendment, **SBC WISCONSIN** shall have no obligation to provide, and CLEC is not entitled to obtain (or continue with) access to any network element on an unbundled basis at rates set under Section 252(d)(1), whether provided alone, or in combination with other UNEs or otherwise, once such network element has been or is Declassified or is otherwise no longer a Section 251(c)(3) UNE. The preceding includes without limitation that **SBC WISCONSIN** shall not be obligated to provide combinations (whether considered new, pre-existing or existing) involving **SBC WISCONSIN** network elements that do not constitute Section 251(c)(3) UNEs, or where Section 251(c)(3) UNEs are not requested for permissible purposes.
- 2.6 **SBC WISCONSIN** will provide access to Section 251(c)(3) UNEs for the provision by CLEC of a Telecommunications Service. (Act, Section 251(c)(3)).
- 2.7 **SBC WISCONSIN** will provide CLEC nondiscriminatory access to Section 251(c)(3) UNEs (Act, Section 251(c)(3), Act, 47 CFR § 51.307(a)):
 - 2.7.1 At any technically feasible point (Act, Section 251(c)(3); 47 CFR § 51.307(a));
 - 2.7.2 At the rates, terms, and conditions which are just, reasonable, and nondiscriminatory (Act, Section 251(c)(3); 47 CFR § 51.307(a) & 51.307(b));

- 2.7.3 In a manner that allows CLEC to provide a Telecommunications Service that may be offered by means of that Section 251(c)(3) UNE (Act, Section 251(c)(3); 47 CFR § 51.307 (c));
- 2.7.4 In a manner that allows access to the facility or functionality of a requested Section 251(c)(3) UNE to be provided separately from access to other elements, and for a separate charge (47 CFR § 51.307(d));
- 2.7.5 With technical information regarding **SBC WISCONSIN**'s network facilities to enable CLEC to achieve access to Section 251(c)(3) UNEs (47 CFR § 51.307(e));
- 2.7.6 Except as provided in this Appendix, without imposing limitations, restrictions, or requirements on requests for, or the use of, Section 251(c)(3) UNEs for the service CLEC seeks to offer (47 CFR § 51.309(a));
- 2.7.7 Where applicable, terms and conditions of access to Section 251(c)(3) UNEs shall be no less favorable than terms and conditions under which **SBC WISCONSIN** provides such elements to itself (47 CFR § 51.313(b));
- 2.7.8 Only to the extent it has been determined that these elements are required by the "necessary" and "impair" standards of the Act (Act, Section 251(d)(2));
- 2.7.9 Except upon request of CLEC, **SBC WISCONSIN** shall not separate CLEC-requested Section 251(c)(3) UNEs that are currently combined. (47 CFR § 51.315(b)) **SBC WISCONSIN** is not prohibited from or otherwise limited in separating any Section 251(c)(3) UNEs not requested by CLEC or a Telecommunications Carrier, including without limitation in order to provide a Section 251(c)(3) UNE(s) or other **SBC WISCONSIN** offering(s).
- 2.8 As provided for herein, **SBC WISCONSIN** will permit CLEC exclusive use of a Section 251(c)(3) UNE facility for a period of time, and when CLEC is purchasing access to a feature, function, or capability of such a facility, **SBC WISCONSIN** will provide use of that feature, function, or capability for a period of time (47 CFR § 51.309(c)).
- 2.9 **SBC WISCONSIN** will maintain, repair, or replace Section 251(c)(3) UNEs (47 CFR § 51.309(c)) as provided for in this Agreement.
- 2.10 To the extent technically feasible, the quality of the Section 251(c)(3) UNE and access to such Section 251(c)(3) UNEs provided to a requesting telecommunications carrier shall be at least equal to what **SBC WISCONSIN** provides to itself (47 CFR § 51.311(a), (b)).
- 2.11 Each Party shall be solely responsible for the services it provides to its End Users and to other Telecommunications Carriers.
- 2.12 Section 251(c)(3) UNEs provided to CLEC under the provisions of this Appendix shall remain the property of **SBC WISCONSIN**.
- 2.13 Performance of Section 251(c)(3) UNEs
- 2.13.1 Each Section 251(c)(3) UNE will be provided in accordance with **SBC WISCONSIN** Technical Publications or other written descriptions, if any, as changed from time to time by **SBC WISCONSIN** at its sole discretion.
- 2.13.2 Nothing in this Appendix shall limit either Party's ability to upgrade its network through the incorporation of new equipment, new software or otherwise or to otherwise change and/or modify its network including, without limitation, through the retirement and/or replacement of equipment, software or otherwise. Each Party agrees to comply with the Network Disclosure rules adopted by the FCC in CC Docket No. 96-98, Second Report and Order, codified at 47 C.F.R. 51.325 through 51.335, as such rules maybe amended from time to time (the "Network Disclosure Rules"). **SBC WISCONSIN** will not discontinue any Section 251(c)(3) UNE that **SBC WISCONSIN** is required to provide to CLEC under this Agreement unless and until: (i) **SBC WISCONSIN** provides requisite notice of the planned network change and/or modification in accordance with the Network Disclosure Rules (when applicable) and no objection is made to **SBC WISCONSIN's** proposed network

modification(s) and/or change(s) or any objection(s) is denied or deemed denied under such Rules; or (ii) if and when applicable, following **SBC WISCONSIN's** exercise of its rights under Applicable Law and/or this Agreement including, without limitation, the intervening law/change in law provisions in this Agreement; or (iii) to the extent otherwise permitted in this Agreement.

- 2.13.3 **SBC WISCONSIN** may elect to conduct upgrades or conversions for the improvement of its network or systems. During such upgrades or conversions, CLEC orders for Section 251(c)(3) UNEs from affected Wire Center may be suspended for a period of a few days prior and one day after the upgrade or conversion date, consistent with the suspension **SBC WISCONSIN** places on itself for orders from its End Users and other CLEC customers.
- 2.13.4 CLEC will be solely responsible, at its own expense, for the overall design of its Telecommunications Services and for any redesigning or rearrangement of its Telecommunications Services which may be required because of changes in facilities, operations, or procedure of **SBC WISCONSIN**, minimum network protection criteria, or operating or maintenance characteristics of the facilities.
- 2.14 Conditions for Access to Section 251(c)(3) UNEs
- 2.14.1 In order to access and use Section 251(c)(3) UNEs, CLEC must be a Telecommunications Carrier (Section 251(c)(3)), and must use the Section 251(c)(3) UNE(s) for the provision of a Telecommunications Service (Section 251(c)(3)) as permitted by the FCC and the Commission. Together, these conditions are the "Statutory Conditions" for access to Section 251(c)(3) UNEs. Accordingly, CLEC hereby represents and warrants that it is a Telecommunications Carrier and that it will notify **SBC WISCONSIN** immediately in writing if it ceases to be a Telecommunications Carrier. Failure to so notify **SBC WISCONSIN** shall constitute material breach of this Agreement.
- 2.14.1.1 By way of example, use of a Section 251(c)(3) UNE (whether on a stand-alone basis, in combination with other UNEs (Section 251(c)(3) or otherwise), with a network element possessed by CLEC, or otherwise) to provide service to CLEC or for other administrative purpose(s) does not constitute using a Section 251(c)(3) UNE pursuant to the Statutory Conditions.
- 2.14.1.2 By way of further example, CLEC may not access Section 251(c)(3) UNEs for the exclusive provision of mobile wireless services, or long distance services or interexchange services (telecommunications service between different stations in different exchange areas).
- 2.14.2 Other conditions to accessing and using any Section 251(c)(3) UNE (whether on a stand-alone basis, in combination with other Section 251(c)(3) UNEs, with a network element possessed by CLEC, or otherwise) may be applicable under Section 251(c)(3) and effective FCC rules and associated Section 251(c)(3) and effective FCC and judicial orders and will also apply.
- 2.15 New combinations Involving Section 251(c)(3) UNEs
- 2.15.1 Subject to the provisions hereof and upon CLEC request, **SBC WISCONSIN** shall meet its combining obligations involving Section 251(c)(3) UNEs as and to the extent required by FCC rules and orders, and *Verizon Comm. Inc. v. FCC*, 535 U.S. 467 (May 13, 2002) ("*Verizon Comm. Inc.*") and, to the extent not inconsistent therewith, the rules and orders of relevant state Commission and any other Applicable Law.
- 2.15.1.1 Any combining obligation is limited solely to combining of Section 251(c)(3) UNEs; accordingly, no other facilities, services or functionalities are subject to combining, including but not limited to facilities, services or functionalities that **SBC WISCONSIN** might offer pursuant to Section 271 of the Act.
- 2.15.2 In the event that **SBC WISCONSIN** denies a request to perform the functions necessary to combine Section 251(c)(3) UNEs or to perform the functions necessary to combine Section 251(c)(3) UNEs with elements possessed by CLEC, **SBC WISCONSIN** shall provide written notice to CLEC of such denial and the basis thereof. Any dispute over such denial shall be addressed using the dispute resolution procedures applicable to this Agreement. In any dispute resolution proceeding, **SBC WISCONSIN** shall have the burden to prove that such denial meets one or more applicable

standards for denial, including without limitation those under the FCC rules and orders, *Verizon Comm. Inc.* and the Agreement, including Section 2.15 of this Appendix.

2.15.3 In accordance with and subject to the provisions of this Section 2.15, including Section 2.15.3.2 and 2.15.5, the new Section 251(c)(3) UNE combinations, if any, incorporated into this Appendix shall be made available to CLEC.

2.15.3.1 The Parties acknowledge that the United States Supreme Court in *Verizon Comm. Inc.* relied on the distinction between an Incumbent Local Exchange Carrier such as **SBC WISCONSIN** being required to perform the functions necessary to combine Section 251(c)(3) UNEs and to combine Section 251(c)(3) UNEs with elements possessed by a requesting Telecommunications Carrier, as compared to an incumbent LEC being required to complete the actual combination. As of the time this Appendix was agreed-to by the Parties, there has been no further ruling or other guidance provided on that distinction and what functions constitute only those that are necessary to such combining. In light of that uncertainty, **SBC WISCONSIN** is willing to perform the actions necessary to also complete the actual physical combination for those new Section 251(c)(3) UNE combinations, if any, to this Appendix, subject to the following:

2.15.3.1.1 Section 2.15, including any acts taken pursuant thereto, shall not in any way prohibit, limit or otherwise affect, or act as a waiver by, **SBC WISCONSIN** from pursuing any of its rights, remedies or arguments, including but not limited to those with respect to *Verizon Comm. Inc.*, the remand thereof, or any FCC or Commission or court proceeding, including its right to seek legal review or a stay of any decision regarding combinations involving UNEs. Such rights, remedies, and arguments are expressly reserved by **SBC WISCONSIN**. Without affecting the foregoing, this Agreement does not in any way prohibit, limit, or otherwise affect **SBC WISCONSIN** from taking any position with respect to combinations including Section 251(c)(3) UNEs or any issue or subject addressed or related thereto.

2.15.3.1.2 Upon the effective date of any regulatory, judicial, or legislative action setting forth, eliminating, or otherwise delineating or clarifying the extent of an incumbent LEC's combining obligations, **SBC WISCONSIN** shall be immediately relieved of any obligation to perform any non-included combining functions or other actions under this Agreement or otherwise, and CLEC shall thereafter be solely responsible for any such non-included functions or other actions. This Section 2.15.3.1.2 shall apply in accordance with its terms, regardless of change in law, intervening law or other similarly purposed provision of the Agreement and, concomitantly, the first sentence of this Section 2.15.3.1.2 shall not affect the applicability of any such provisions in situations not covered by that first sentence.

2.15.3.1.3 Without affecting the application of Section 2.15.3.1.2 (which shall apply in accordance with its provisions), upon notice by **SBC WISCONSIN**, the Parties shall engage in good faith negotiations to amend the Agreement to set forth and delineate those functions or other actions that go beyond the ILEC obligation to perform the functions necessary to combine Section 251(c)(3) UNEs and combine Section 251(c)(3) UNEs with elements possessed by a requesting Telecommunications Carrier, and to eliminate any **SBC WISCONSIN** obligation to perform such functions or other actions. If those negotiations do not reach a mutually agreed-to amendment within sixty (60) days after the date of any such notice, the remaining disputes between the Parties regarding those functions and other actions that go beyond those functions necessary to combine Section 251(c)(3) UNEs and combine Section

251(c)(3) UNEs with elements possessed by a requesting Telecommunications Carrier, shall be resolved pursuant to the dispute resolution process provided for in this Agreement. Such a notice can be given at any time, and from time to time.

- 2.15.3.2 A new Section 251(c)(3) UNE combination, if any, does not imply or otherwise indicate the availability of related support system capabilities, including without limitation, whether electronic ordering is available for any particular included new Section 251(c)(3) UNE combination in one or more States. Where electronic ordering is not available, manual ordering shall be used.
 - 2.15.3.3 For a new Section 251(c)(3) UNE combination, if any, CLEC shall issue appropriate service requests. These requests will be processed by **SBC WISCONSIN**, and CLEC will be charged the applicable Section 251(c)(3) UNE service order charge(s), in addition to the recurring and nonrecurring charges for each individual Section 251(c)(3) UNE and cross connect ordered.
 - 2.15.3.4 Upon notice by **SBC WISCONSIN**, the Parties shall engage in good faith negotiations to amend the Agreement to include a fee(s) for any work performed by **SBC WISCONSIN** in providing the new Section 251(c)(3) UNE combinations, if any, which work is not covered by the charges applicable per Section 2.15.3.3. For any such work done by **SBC WISCONSIN** under Section 2.15.1, any such fee(s) shall be a reasonable cost-based fee, and shall be calculated using the Time and Material charges as reflected in State-specific pricing. For any such work that is not so required to be done by **SBC WISCONSIN**, any such fee(s) shall be at a market-based rate. If those negotiations do not reach a mutually agreed-to amendment within sixty (60) days after the date of any such notice, the remaining disputes between the Parties concerning any such fee(s) shall be resolved pursuant to the dispute resolution process provided for in this Agreement. Such a notice can be given at any time, and from time to time.
- 2.15.4 In accordance with and subject to the provisions of this Section 2.15, any request not included in Section 2.15.3 in which CLEC wants **SBC WISCONSIN** to perform the functions necessary to combine Section 251(c)(3) UNEs or to perform the functions necessary to combine Section 251(c)(3) UNEs with elements possessed by CLEC (as well as requests where CLEC also wants **SBC WISCONSIN** to complete the actual combination), shall be made by CLEC in accordance with the bona fide request (BFR) process set forth in this Agreement.
- 2.15.4.1 In any such BFR, CLEC must designate among other things the Section 251(c)(3) UNE(s) sought to be combined and the needed location(s), the order in which the Section 251(c)(3) UNEs and any CLEC elements are to be connected, and how each connection (e.g., cross-connected) is to be made between an **SBC WISCONSIN** Section 251(c)(3) UNE and the Section 251(c)(3) network element(s) possessed by CLEC.
 - 2.15.4.2 In addition to any other applicable charges, CLEC shall be charged a reasonable cost-based fee for any combining work done by **SBC WISCONSIN** under Section 2.15.4.1. Such fee shall be calculated using the Time and Material charges as reflected in the State-specific Appendix Pricing. **SBC WISCONSIN**'s Preliminary Analysis to the BFR shall include an estimate of such fee for the specified combining. With respect to a BFR in which CLEC requests **SBC WISCONSIN** to perform work not required by Section 2.15.4.1, CLEC shall be charged a market-based rate for any such work.
- 2.15.5 Without affecting the other provisions hereof, the Section 251(c)(3) UNE combining obligations referenced in this Section 2.15 apply only in situations where each of the following is met:
- 2.15.5.1 it is technically feasible, including that network reliability and security would not be impaired;

2.15.5.2 **SBC WISCONSIN**'s ability to retain responsibility for the management, control, and performance of its network would not be impaired;

2.15.5.3 **SBC WISCONSIN** would not be placed at a disadvantage in operating its own network;

2.15.5.4 it would not undermine the ability of other Telecommunications Carriers to obtain access to Section 251(c)(3) UNEs or to Interconnect with **SBC WISCONSIN**'s network; and

2.15.5.5 CLEC is

2.15.5.5.1 unable to make the combination itself; or

2.15.5.5.2 a new entrant and is unaware that it needs to combine certain Section 251(c)(3) UNEs to provide a Telecommunications Service, but such obligation under this Section 2.15.5.5 ceases if **SBC WISCONSIN** informs CLEC of such need to combine.

2.15.6 For purposes of Section 2.15.5.5 and without limiting other instances in which CLEC may be able to make a combination itself, CLEC is deemed able to make a combination itself when the Section 251(c)(3) UNE(s) sought to be combined are available to CLEC, including without limitation:

2.15.6.1 at an **SBC WISCONSIN** premises where CLEC is physically collocated or has an on-site adjacent Collocation arrangement, or has established one of the UNE connection Methods described in Section 3;

2.15.6.2 for **SBC CALIFORNIA** only, within an adjacent location arrangement, if and as permitted by this Agreement.

2.15.7 Section 2.15.5.5 shall only begin to apply thirty (30) days after notice by **SBC WISCONSIN** to CLEC. Thereafter, **SBC WISCONSIN** may invoke Section 2.15.5.5 with respect to any request for a combination involving Section 251(c)(3) UNEs.

2.16 Conversion of Wholesale Services to Section 251(c)(3) UNEs

2.16.1 Upon request, **SBC WISCONSIN** shall convert a wholesale service, or group of wholesale services, to the equivalent Section 251(c)(3) UNE, or combination of Section 251(c)(3) UNEs, that is available to CLEC under terms and conditions set forth in this Appendix, so long as the CLEC and the wholesale service, or group of wholesale services, and the Section 251(c)(3) UNEs, or combination of Section 251(c)(3) UNEs, that would result from the conversion meet the eligibility criteria that may be applicable. (By way of example only, the statutory conditions would constitute one such eligibility criterion.)

2.16.2 Where processes for the conversion requested pursuant to this Appendix are not already in place, **SBC WISCONSIN** will develop and implement processes, subject to any associated rates, terms and conditions. The Parties will comply with any applicable Change Management guidelines.

2.16.3 Except as agreed to by the Parties or otherwise provided hereunder, **SBC WISCONSIN** shall not impose any untariffed termination charges, or any disconnect fees, re-connect fees, or charges associated with establishing a service for the first time, in connection with any conversion between a wholesale service or group of wholesale services and a UNE or combination of UNEs. **SBC WISCONSIN** may charge applicable service order charges and record change charges, as provided in the Pricing Appendix and Rate Summary.

2.16.4 This Section 2.16 only applies to situations where the wholesale service, or group of wholesale services, is comprised solely of Section 251(c)(3) UNEs offered or otherwise provided for in this Appendix.

2.16.5 If CLEC does not meet the applicable eligibility criteria or, for any reason, stops meeting the eligibility criteria for a particular conversion of a wholesale service, or group of wholesale services, to the equivalent Section 251(c)(3) UNE, or combination of Section 251(c)(3) UNEs, CLEC shall not request such conversion or continue using such the Section 251(c)(3) UNE or Section 251(c)(3)

UNEs that result from such conversion. To the extent CLEC fails to meet (including ceases to meet) the eligibility criteria applicable to a Section 251(c)(3) UNE or combination of Section 251(c)(3) UNEs, or Commingled Arrangement (as defined herein), **SBC WISCONSIN** may convert the Section 251(c)(3) UNE or Section 251(c)(3) UNE combination, or Commingled Arrangement, to the equivalent wholesale service, or group of wholesale services, upon written notice to CLEC.

2.16.5.1 This Section 2.16.5 applies to any Section 251(c)(3) UNE or combination of Section 251(c)(3) UNEs, including whether or not such Section 251(c)(3) UNE or combination of Section 251(c)(3) UNEs had been previously converted from an **SBC WISCONSIN** service.

2.16.5.2 **SBC WISCONSIN** may exercise its rights provided for hereunder and those allowed by law in auditing compliance with any applicable eligibility criteria.

2.16.6 In requesting a conversion of an **SBC WISCONSIN** service, CLEC must follow the guidelines and ordering requirements provided by **SBC WISCONSIN** that are applicable to converting the particular **SBC WISCONSIN** service sought to be converted.

2.16.7 Nothing contained in this Appendix or Agreement provides CLEC with an opportunity to supersede or dissolve existing contractual arrangements, or otherwise affects **SBC WISCONSIN's** ability to enforce any tariff, contractual, or other provision(s), including those providing for early termination liability or similar charges.

2.17 Commingling

2.17.1 "Commingling" means the connecting, attaching, or otherwise linking of a Section 251(c)(3) UNE, or a combination of Section 251(c)(3) UNEs, to one or more facilities or services that CLEC has obtained at wholesale from **SBC WISCONSIN**, or the combining of a Section 251(c)(3) UNE, or a combination of Section 251(c)(3) UNEs, with one or more such facilities or services. "Commingling" means the act of Commingling.

2.17.1.1 "Commingled Arrangement" means the arrangement created by Commingling.

2.17.1.2 Neither Commingling nor a Commingled Arrangement shall include, involve, or otherwise encompass an **SBC WISCONSIN** offering pursuant to 47 U.S.C. § 271 that is not a Section 251(c)(3) UNE under 47 U.S.C. § 251(c)(3).

2.17.1.3 Commingling is not permitted, nor is **SBC WISCONSIN** required to perform the functions necessary to Commingling, where the Commingled Arrangement (i) is not technically feasible, including that network reliability and security would be impaired; or (ii) would impair **SBC WISCONSIN's** ability to retain responsibility for the management, control, and performance of its network; or (iii) would place **SBC WISCONSIN** at a disadvantage in operating its own network; or (iv) would undermine the ability of other Telecommunications Carriers to obtain access to Section 251(c)(3) UNEs or to Interconnect with **SBC WISCONSIN's** network.

2.17.1.4 Where processes for any Commingling requested pursuant to this Agreement (including, by way of example, for existing services sought to be converted to a Commingled Arrangement) are not already in place, **SBC WISCONSIN** will develop and implement processes, subject to any associated rates, terms and conditions. The Parties will comply with any applicable Change Management guidelines.

2.17.1.5 Any Commingling obligation is limited solely to Commingling of one or more facilities or services that CLEC has obtained at wholesale from **SBC WISCONSIN** with Section 251(c)(3) UNEs; accordingly, no other facilities, services or functionalities are subject to commingling, including but not limited to facilities, services or functionalities that **SBC WISCONSIN** might offer pursuant to Section 271 of the Act.

2.17.2 Except as provided in Section 2 and, further, subject to the other provisions of this Agreement, **SBC WISCONSIN** shall permit CLEC to Commingling a Section 251(c)(3) UNE or a combination of Section 251(c)(3) UNEs with facilities or services obtained at wholesale from **SBC WISCONSIN** to the extent

required by Section 251(c)(3) and effective FCC rules and associated Section 251(c)(3) and effective FCC and judicial orders.

- 2.17.3 Upon request, and subject to this Section 2, SBC WISCONSIN shall perform the functions necessary to Commingle a Section 251(c)(3) UNE or a combination of Section 251(c)(3) UNEs with one or more facilities or services that CLEC has obtained at wholesale from SBC WISCONSIN (as well as requests where CLEC also wants SBC WISCONSIN to complete the actual Commingling), except that SBC WISCONSIN shall have no obligation to perform the functions necessary to Commingle (or to complete the actual Commingling) if (i) Section 2.17.1.3 applies to the Commingled Arrangement sought by CLEC; or (ii) the CLEC is able to perform those functions itself.

Where CLEC is a new entrant and is unaware that it needs to Commingle to provide a Telecommunications Service, SBC WISCONSIN's obligation to Commingle ceases if SBC WISCONSIN informs CLEC of such need to Commingle.

- 2.17.3.1 For purposes of Section 2.17.3 and without limiting other instances in which CLEC may be able to Commingle for itself, CLEC is deemed able to Commingle for itself when the Section 251(c)(3) UNE(s), Section 251(c)(3) UNE combination, and facilities or services obtained at wholesale from SBC WISCONSIN are available to CLEC, including without limitation:

- 2.17.3.1.1 at an SBC WISCONSIN premises where CLEC is physically collocated or has an on-site adjacent Collocation arrangement;

- 2.17.3.2 Section 2.17.3(ii) shall only begin to apply thirty (30) days after notice by SBC WISCONSIN to CLEC. Thereafter, SBC WISCONSIN may invoke Section 2.17.3(ii) with respect to any request for Commingling.

- 2.17.4 In accordance with and subject to the provisions of this Section 2.17, any request by CLEC for SBC WISCONSIN to perform the functions necessary to Commingle (as well as requests where CLEC also wants SBC WISCONSIN to complete the actual Commingling), shall be made by CLEC in accordance with this Agreement.

- 2.17.4.1 SBC WISCONSIN is developing a list of Commingled Arrangements that will be available for ordering, which list will be made available in the CLEC Handbook and posted on "CLEC Online." Once that list is included in the CLEC Handbook or posted, whichever is earlier, CLEC will be able to submit orders for any Commingled Arrangement on that list. The list may be modified, from time to time.

- 2.17.4.2 Any CLEC request for a Commingled Arrangement not found on the then-existing list of orderable Commingled Arrangements must be submitted via the bona fide request (BFR) process. In any such BFR, CLEC must designate among other things the Section 251(c)(3) UNE(s), combination of Section 251(c)(3) UNEs, and the facilities or services that CLEC has obtained at wholesale from SBC WISCONSIN sought to be Commingled and the needed location(s), the order in which such Section 251(c)(3) UNEs, such combinations of Section 251(c)(3) UNEs, and such facilities and services are to be Commingled, and how each connection (e.g., cross-connected) is to be made between them.

- 2.17.4.3 In addition to any other applicable charges, CLEC shall be charged a reasonable fee for any Commingling work done by SBC WISCONSIN under this Section 2.17 (including performing the actual Commingling). Such fee shall be calculated using the Time and Material charges as reflected in the State-specific Appendix Pricing. SBC WISCONSIN's Preliminary Analysis to the BFR shall include an estimate of such fee for the specified Commingling. With respect to a BFR in which CLEC requests SBC WISCONSIN to perform work not required by this Section 2.17.4, CLEC shall be charged a market-based rate for any such work.

- 2.17.5 SBC WISCONSIN shall not be required to, and shall not, provide "ratcheting" as a result of Commingling or a Commingled Arrangement. As a general matter, "ratcheting" is a pricing

mechanism that involves billing a single circuit at multiple rates to develop a single, blended rate. **SBC WISCONSIN** shall charge the rates for Section 251(c)(3) UNEs (or Section 251(c)(3) UNE combinations) Commingled with facilities or services obtained at wholesale (including for example special access services) on an element-by-element basis, and such facilities and services on a facility-by-facility, service-by-service basis.

- 2.17.6 Nothing in this Agreement shall impose any obligation on **SBC WISCONSIN** to allow or otherwise permit Commingling, a Commingled Arrangement, or to perform the functions necessary to Commingle, or to allow or otherwise permit CLEC to Commingle or to make a Commingled Arrangement, beyond those obligations imposed by the Act, as determined by Section 251(c)(3) and effective FCC rules and judicial orders. The preceding includes without limitation that **SBC WISCONSIN** shall not be obligated to Commingle network elements that do not constitute Section 251(c)(3) UNEs, or where Section 251(c)(3) UNEs are not requested for permissible purposes. If CLEC does not meet the applicable eligibility criteria or, for any reason, stops meeting the eligibility criteria for a particular Section 251(c)(3) UNE involved or to be involved in a Commingled Arrangement, CLEC shall not request such Commingled Arrangement or continue using such Commingled Arrangement.
- 2.17.7 In the event that Commingling also involves **SBC WISCONSIN** performing the functions necessary to combine Section 251(c)(3) UNEs (e.g., make a new combination of Section 251(c)(3) UNEs), including making the actual Section 251(c)(3) UNE combination, then Section 2.16 shall govern with respect to that Section 251(c)(3) UNE combining aspect of that particular Commingling and/or Commingled Arrangement.
- 2.17.8 Subject to this 2.17, **SBC WISCONSIN** shall not deny access to a Section 251(c)(3) UNE or a combination of Section 251(c)(3) UNEs on the grounds that one or more of the Section 251(c)(3) UNEs is connected to, attached to, linked to, or combined with, a facility or service obtained at wholesale from **SBC WISCONSIN**.
- 2.17.9 Commingling in its entirety (including its definition, the ability of CLEC to Commingle, **SBC WISCONSIN**'s obligation to perform the functions necessary to Commingle, and Commingled Arrangements) shall not apply to or otherwise include, involve or encompass **SBC WISCONSIN** offerings pursuant to 47 U.S.C. § 271 that are not Section 251(c)(3) UNEs under 47 U.S.C. § 251(c)(3).
- 2.18 **Mandatory Eligibility Criteria for Access to Certain Section 251(c)(3) UNEs**
- 2.18.1 Except as provided below in this Section 2.18 or elsewhere in the Agreement and subject to this Section and Section 2.16, **Conversion of Wholesale Services to UNEs**, of this Appendix, **SBC WISCONSIN** shall provide access to UNEs and combinations of UNEs without regard to whether the CLEC seeks access to the UNEs to establish a new circuit or to convert an existing circuit from a service to UNEs.
- 2.18.1.1 "Enhanced Extended Link" or "EEL" means a UNE combination consisting of an unbundled loop(s) and Unbundled Dedicated Transport, together with any facilities, equipment, or functions necessary to combine those UNEs (including, for example, multiplexing capabilities). An DS1 or higher EEL is required to terminate in a Collocation arrangement that meets the requirements of Section 2.18.3 of this Appendix (e.g., the end of the Unbundled Dedicated Transport that is opposite the end connected to the UNE local loop, must be accessed by CLEC at such a CLEC Collocation arrangement via a cross-connect).
- 2.18.2 **SBC WISCONSIN** is not obligated, and shall not, provide access to (1) an unbundled DS1 loop in combination, or Commingled, with a dedicated DS1 transport facility or service or a dedicated DS3 or higher transport facility or service, or an unbundled DS3 loop in combination, or Commingled, with a dedicated DS3 or higher transport facility or service, or (2) an unbundled dedicated DS1 transport facility in combination, or Commingled, with an unbundled DS1 loop or a DS1 channel termination service, or to an unbundled dedicated DS3 transport facility in combination, or Commingled, with an unbundled DS1 loop or a DS1 channel termination service, or to an unbundled DS3 loop or a DS3 or

higher channel termination service (collectively, the "Included Arrangements"), unless CLEC certifies that all of the following conditions are met with respect to the arrangement being sought:

- 2.18.2.1 CLEC (directly and not via an Affiliate) has received state certification to provide local voice service in the area being served or, in the absence of a state certification requirement, has complied with registration, tariffing, filing fee, or other regulatory requirements applicable to the provision of local voice service in that area.
- 2.18.2.2 The following criteria are satisfied for each Included Arrangement, including without limitation each DS1 circuit, each DS3 circuit, each DS1 EEL and each DS1 equivalent circuit on a DS3 EEL:
 - 2.18.2.2.1 Each circuit to be provided to each End User will be assigned a local telephone number (NPA-NXX-XXXX) that is associated with local service provided within an **SBC WISCONSIN** local service area and within the LATA where the circuit is located ("Local Telephone Number"), prior to the provision of service over that circuit (and for each circuit, CLEC will provide the corresponding Local Telephone Number(s) as part of the required certification); and
 - 2.18.2.2.2 Each DS1-equivalent circuit on a DS3 EEL or on any other Included Arrangement, must have its own Local Telephone Number assignment, so that each DS3 must have at least 28 Local voice Telephone Numbers assigned to it; and
 - 2.18.2.2.3 Each circuit to be provided to each End User will have 911 or E911 capability prior to the provision of service over that circuit; and
 - 2.18.2.2.4 Each circuit to be provided to each End User will terminate in a Collocation arrangement that meets the requirements of Section 2.18.3 of this Appendix Section 251(c)(3) UNE; and
 - 2.18.2.2.5 Each circuit to be provided to each End User will be served by an Interconnection trunk that meets the requirements of Section 2.18.4 of this Appendix Section 251(c)(3) UNE; and
 - 2.18.2.2.6 For each 24 DS1 EELs, or other facilities having equivalent capacity, CLEC will have at least one active DS1 local service interconnection trunk that meets the requirements of Section 2.18.4 of this Appendix; and
 - 2.18.2.2.7 Each circuit to be provided to each End User will be served by a switch capable of providing local voice traffic.

By way of example only, the application of the foregoing conditions means that a wholesale or retail DS1 or higher service/circuit (whether intrastate or interstate in nature or jurisdiction) comprised, in whole or in part, of a UNE local loop-Unbundled Dedicated Transport(s)-UNE local loop (with or without multiplexing) cannot qualify for at least the reason that the UNE local loop-Unbundled Dedicated Transport combination included within that service/circuit does not terminate to a Collocation arrangement. Accordingly, **SBC WISCONSIN** shall not be required to provide, and shall not provide, any UNE combination of a UNE local loop and Unbundled Dedicated Transport at DS1 or higher (whether as a UNE combination by themselves, with a network element possessed by CLEC, or pursuant to Commingling, or whether as a new arrangement or from a conversion of an existing service/circuit) that does not terminate to a Collocation arrangement that meets the requirements of Section 2.18.3 of this Appendix Section 251(c)(3) UNE. Section 2.18.2 shall apply in any arrangement that includes more than one of the UNEs, facilities, or services set forth in that Section, including, without limitation, to any arrangement where one or more UNEs, facilities, or services not set forth in Section 2.18.2 is also included or otherwise used in that arrangement (whether as part of a UNE combination, Commingled Arrangement, or otherwise), and irrespective of the placement or sequence of them.

- 2.18.3 A Collocation arrangement meets the requirements of Section 2.18 of this Appendix Section 251(c)(3) UNE if it is:
- 2.18.3.1 Established pursuant to Section 251(c)(6) of the Act and located at SBC WISCONSIN's premises within the same LATA as the End User's premises, when SBC WISCONSIN is not the collocator; or
 - 2.18.3.2 Located at a third party's premises within the same LATA as the End User's premises, when SBC WISCONSIN is the collocator.
- 2.18.4 An Interconnection trunk meets the requirements of Sections 2.18.2.2.5 and 2.18.2.2.6 of this Appendix Section 251(c)(3) UNE if CLEC will transmit the calling party's Local Telephone Number in connection with calls exchanged over the trunk, and the trunk is located in the same LATA as the End User premises served by the Included Arrangement.
- 2.18.5 For a new circuit to which Section 2.18.2 applies, CLEC may initiate the ordering process if CLEC certifies that it will not begin to provide any service over that circuit until a Local Telephone Number is assigned and 911/E911 capability is provided, as required by Section 2.18.2.2.1 and Section 2.18.2.2.3, respectively. In such case, CLEC shall satisfy Section 2.18.2.2.1 and/or Section 2.18.2.2.3 if it assigns the required Local Telephone Number(s), and implements 911/E911 capability, within 30 days after SBC WISCONSIN provisions such new circuit. CLEC must provide SBC WISCONSIN with sufficient proof that such assignment and/or implementation has occurred by the end of such 30th day.
- 2.18.5.1 Section 2.18.5 does not apply to existing circuits to which Section 2.18.2 applies, including conversions or migrations (e.g., CLEC shall not be excused from meeting the Section 2.18.2.2.1 and Section 2.18.2.2.3 requirements for existing circuits at the time it initiates the ordering process).
- 2.18.6 CLEC must provide the certification required by Section 2.18 on a form provided by SBC WISCONSIN, on a circuit-by-circuit/service-by-service/Included Arrangement-by-Included Arrangement basis.
- 2.18.6.1 If the information previously provided in a certification is inaccurate (or ceases to be accurate), CLEC shall update such certification promptly with SBC WISCONSIN.
- 2.18.7 In addition to any other audit rights provided for this Agreement and those allowed by law, SBC WISCONSIN may obtain and pay for an independent auditor to audit CLEC, on an annual basis, applied on a State-by-State basis, for compliance with this Section 2.18. For purposes of calculating and applying an "annual basis", it means for a State a consecutive 12-month period, beginning upon SBC WISCONSIN's written notice that an audit will be performed for that State, subject to Section 2.18.7.4 of this Section.
- 2.18.7.1 Unless otherwise agreed by the Parties (including at the time of the audit), the independent auditor shall perform its evaluation in accordance with the standards established by the American Institute for Certified Public Accountants (AICPA), which will require the auditor to perform an "examination engagement" and issue an opinion regarding CLEC's compliance with the qualifying service eligibility criteria.
 - 2.18.7.2 The independent auditor's report will conclude whether CLEC complied in all material respects with this Section 2.18.
 - 2.18.7.3 Consistent with standard auditing practices, such audits require compliance testing designed by the independent auditor, which typically include an examination of a sample selected in accordance with the independent auditor's judgment.
 - 2.18.7.4 To the extent the independent auditor's report concludes that CLEC failed to comply with this Section 2.18, CLEC must true-up any difference in payments beginning from the date that the non-compliant circuit was established as a UNE/UNE combination, in whole or in part (notwithstanding any other provision hereof), CLEC must convert the UNE or UNE

combination, or Commingled Arrangement, to an equivalent or substantially similar wholesale service, or group of wholesale services, (and SBC WISCONSIN may initiate and affect such a conversion on its own without any further consent by CLEC), and CLEC shall timely make the correct payments on a going-forward basis, and all applicable remedies for failure to make such payments shall be available to SBC WISCONSIN. In no event shall rates set under Section 252(d)(1) of the Act apply for the use of any UNE for any period in which CLEC does not meet the conditions set forth in this Section 2.18 for that UNE, arrangement, or circuit, as the case may be. Also, the “annual basis” calculation and application shall be immediately reset, e.g., SBC WISCONSIN shall not have to wait the remaining part of the consecutive 12-month period before it is permitted to audit again in that State.

2.18.7.4.1 To the extent that the independent auditor’s report concludes that CLEC failed to comply in all material respects with this Section 2.18, CLEC must reimburse SBC WISCONSIN for the cost of the independent auditor and for SBC WISCONSIN’s costs in the same manner and using the same methodology and rates that SBC WISCONSIN is required to pay CLEC’s costs under Section 2.18.7.4.2.

2.18.7.4.2 To the extent the independent auditor’s report concludes that the CLEC complied in all material respects with this Section 2.18, SBC WISCONSIN must reimburse CLEC for its reasonable staff time and other reasonable costs associated in responding to the audit (e.g., collecting data in response to the auditor’s inquiries, meeting for interviews, etc.).

2.18.7.5 CLEC will maintain the appropriate documentation to support its eligibility certifications, including without limitation call detail records, Local Telephone Number assignment documentation, and switch assignment documentation.

2.18.8 Without affecting the application or interpretation of any other provisions regarding waiver, estoppel, laches, or similar concepts in other situations, CLEC shall fully comply with this Section 2.18 in all cases and, further, the failure of SBC WISCONSIN to require such compliance, including if SBC WISCONSIN provides a circuit(s), an EEL(s), or a Commingled circuit, that does not meet any eligibility criteria, including those in this Section 2.18, shall not act as a waiver of any part of this Section, and estoppel, laches, or other similar concepts shall not act to affect any rights or requirements hereunder.

- 2.19 Where processes for any Section 251(c)(3) UNE requested pursuant to this Agreement, whether alone or in conjunction with any other UNE(s) or service(s), are not already in place, SBC WISCONSIN will develop and implement processes, subject to any associated rates, terms and conditions. The Parties will comply with any applicable Change Management guidelines.
- 2.20 SBC WISCONSIN will combine Section 251(c)(3) UNEs, combine Section 251(c)(3) UNE(s) with network elements possessed by CLEC, and/or Commingle only as set forth in this Appendix Section 251(c)(3) UNEs.
- 2.21 The Parties intend that this Appendix Section 251(c)(3) UNEs contains the sole and exclusive terms and conditions by which CLEC will obtain Section 251(c)(3) UNEs from SBC WISCONSIN. Accordingly, except as may be specifically permitted by this Appendix Section 251(c)(3) UNEs, and then only to the extent permitted, CLEC and its affiliated entities hereby fully and irrevocably waive any right or ability any of them might have to purchase any unbundled network element (whether on a stand-alone basis, in combination with other UNEs (Section 251(c)(3) or otherwise), with a network element possessed by CLEC, or pursuant to Commingling or otherwise) directly from any SBC WISCONSIN tariff, to the extent such tariff(s) is/are available, and agree not to so purchase or attempt to so purchase from any such tariff. Without affecting the application or interpretation of any other provisions regarding waiver, estoppel, laches, or similar concepts in other situations, the failure of SBC WISCONSIN to enforce the foregoing (including if SBC WISCONSIN fails to reject or otherwise block orders for, or provides or continues to provide, unbundled

network elements, Section 251(c)(3) or otherwise, under tariff) shall not act as a waiver of any part of this Section, and estoppel, laches, or other similar concepts shall not act to affect any rights or requirements hereunder. At its option, SBC WISCONSIN may either reject any such order submitted under tariff, or without the need for any further contact with or consent from CLEC, SBC WISCONSIN may process any such order as being submitted under this Appendix Section 251(c)(3) UNEs and, further, may convert any element provided under tariff, to this Appendix Section 251(c)(3) UNEs, effective as of the later in time of the (i) Effective Date of this Agreement/Amendment, or (ii) the submission of the order by CLEC.

3. ACCESS TO SECTION 251(C)(3) UNE CONNECTION METHODS

- 3.1 Subject to Section 2 of this Appendix Section 251(c)(3) UNEs, SBC WISCONSIN shall provide Access to Section 251(c)(3) UNE Connection Methods under the following terms and conditions.
- 3.2 This Section describes the connection methods under which SBC WISCONSIN agrees to provide CLECs with access to Section 251(c)(3) UNEs under this Appendix Section 251(c)(3) UNEs and the conditions under which SBC WISCONSIN makes these methods available. These methods provide CLEC access to multiple SBC WISCONSIN Section 251(c)(3) UNEs that the CLEC may then combine. The methods listed below provide CLEC with access to Section 251(c)(3) UNEs without compromising the security, integrity, and reliability of the public switched network, as well as to minimize potential service disruptions.
 - 3.2.1 Subject to availability of space and equipment, CLEC may use the methods listed below to access and combine Section 251(c)(3) UNE Local Loops within a requested SBC WISCONSIN Central Office.
 - 3.2.1.1 (Method 1)

SBC WISCONSIN will extend SBC WISCONSIN Section 251(c)(3) UNEs requiring cross connection to the CLEC's Physical or Virtual Collocation Point of Termination (POT) when the CLEC is Physically Collocated, e.g. in a caged, cageless or shared cage arrangement or Virtually Collocated, within the same Central Office where the Section 251(c)(3) UNEs which are to be combined are located. For Collocation terms and conditions refer to the Physical and Virtual Collocation Appendices.
 - 3.2.1.2 (Method 2)

SBC WISCONSIN will extend SBC WISCONSIN Section 251(c)(3) UNEs that require cross connection to the CLEC's Section 251(c)(3) UNE frame located in the common room space, other than the Collocation common area, within the same Central Office where the Section 251(c)(3) UNEs which are to be combined are located.
 - 3.2.1.3 (Method 3)

SBC WISCONSIN will extend SBC WISCONSIN Section 251(c)(3) UNEs to the CLEC's Section 251(c)(3) UNE frame that is located outside the SBC WISCONSIN Central Office where the Section 251(c)(3) UNEs are to be combined in a closure such as a cabinet provided by SBC WISCONSIN on SBC WISCONSIN property.
 - 3.3 The following terms and conditions apply to Methods 2 and 3 when SBC WISCONSIN provides access to Section 251(c)(3) UNEs pursuant to Sections 3.2.1. 2 and 3.2.1.3:
 - 3.3.1 The CLEC may cancel the request at any time, but will pay SBC WISCONSIN's reasonable and demonstrable costs for modifying SBC WISCONSIN's Central Office up to the date of cancellation.
 - 3.3.2 CLEC shall be responsible for initial testing and trouble sectionalization of facilities containing CLEC installed cross connects.
 - 3.3.3 CLEC shall refer trouble sectionalized in the SBC WISCONSIN Section 251(c)(3) UNE to SBC WISCONSIN.
 - 3.3.4 Prior to SBC WISCONSIN providing access to Section 251(c)(3) UNEs under this Appendix, CLEC and SBC WISCONSIN shall provide each other with a point of contact for overall coordination.

- 3.3.5 CLEC shall provide all tools and materials required to place and remove the cross connects necessary to combine and disconnect Section 251(c)(3) UNEs when CLEC combines or disconnects Section 251(c)(3) UNEs.
- 3.3.6 CLEC shall designate each Section 251(c)(3) UNE being ordered from SBC WISCONSIN. CLEC shall provide an interface to receive assignment information from SBC WISCONSIN regarding location of the affected Section 251(c)(3) UNEs. This interface may be manual or mechanized.
- 3.3.7 SBC WISCONSIN will provide CLEC with contact numbers as necessary to resolve assignment conflicts encountered. All contact with SBC WISCONSIN shall be referred to such contact numbers.
- 3.3.8 Certain construction and preparation activities may be required to modify a building or prepare the premises for access to Section 251(c)(3) UNEs.
- 3.3.8.1 Where applicable, costs for modifying a building or preparing the premises for access to SBC WISCONSIN Section 251(c)(3) UNEs will be made on an individual case basis (ICB).
- 3.3.8.2 SBC WISCONSIN will contract for and perform the construction and preparation activities using same or consistent practices that are used by SBC WISCONSIN for other construction and preparation work performed in the building.

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6. BONA FIDE REQUEST

- 6.1 Subject to Section 2, SBC WISCONSIN shall process BFR requests under the following terms and conditions in this subsection.
- 6.2 The Bona Fide Request process described in Item I of this Section 6 applies to each Bona Fide Request submitted in the SBC WISCONSIN. For purposes of this Appendix, a "Business Day" means Monday through Friday, excluding Holidays observed by SBC WISCONSIN.

6.3 Item I

SBC WISCONSIN, _ Bona Fide Request Process

- 6.3.1 A Bona Fide Request ("BFR") is the process by which CLEC may request SBC WISCONSIN, _ to provide CLEC access to an additional or new, undefined Section 251(c)(3) UNE, Section 251(c)(3) UNE combination and/or Section 251(c)(3) Commingling requests that constitute or involve a Section 251(c)(3) UNE required to be provided by SBC WISCONSIN, but that is not available under this Agreement at the time of CLEC's request.
- 6.3.2 The BFR process set forth herein does not apply to those services requested pursuant to Report & Order and Notice of Proposed Rulemaking 91-141 (rel. Oct. 19, 1992) paragraph 259 and n. 603 and subsequent rulings.
- 6.3.3 All BFRs must be submitted with a BFR Application Form in accordance with the specifications and processes set forth in the respective sections of the CLEC Handbook. Included with the Application CLEC shall provide a technical description of each requested Section 251(c)(3) UNE, drawings when applicable, the location(s) where needed, the date required, and the projected quantity to be ordered with a 3 year forecast.
- 6.3.4 CLEC is responsible for all costs incurred by SBC WISCONSIN to review, analyze and process a BFR. When submitting a BFR Application Form, CLEC has two options to compensate SBC WISCONSIN for its costs incurred to complete the Preliminary Analysis of the BFR:

- 6.3.4.1 Include with its BFR Application Form a \$2,000 deposit to cover SBC WISCONSIN's preliminary evaluation costs, in which case SBC WISCONSIN may not charge CLEC in excess of \$2,000 to complete the Preliminary Analysis; or
- 6.3.4.2 Not make the \$2,000 deposit, in which case CLEC shall be responsible for all preliminary evaluation costs incurred by SBC WISCONSIN to complete the Preliminary Analysis (regardless of whether such costs are greater or less than \$2,000).
- 6.3.5 If CLEC submits a \$2,000 deposit with its BFR, and SBC WISCONSIN is not able to process the BFR or determines that the request does not qualify for BFR treatment, then SBC WISCONSIN will return the \$2,000 deposit to CLEC. Similarly, if the costs incurred to complete the Preliminary Analysis are less than \$2,000, the balance of the deposit will, at the option of CLEC, either be refunded or credited toward additional developmental costs authorized by CLEC.
- 6.3.6 Upon written notice, CLEC may cancel a BFR at any time, but will pay SBC WISCONSIN, its reasonable and demonstrable costs of processing and/or implementing the BFR up to and including the date SBC WISCONSIN received notice of cancellation. If cancellation occurs prior to completion of the preliminary evaluation, and a \$2,000 deposit has been made by CLEC, and the reasonable and demonstrable costs are less than \$2,000, the remaining balance of the deposit will be, at the option of the CLEC, either returned to CLEC or credited toward additional developmental costs authorized by CLEC.
- 6.3.7 SBC WISCONSIN will promptly consider and analyze each BFR it receives. Within ten (10) Business Days of its receipt SBC WISCONSIN, will acknowledge receipt of the BFR and in such acknowledgement advise CLEC of the need for any further information needed to process the Request. CLEC acknowledges that the time intervals set forth in this Appendix begins once SBC WISCONSIN has received a complete and accurate BFR Application Form and, if applicable, \$2,000 deposit.
- 6.3.8 Except under extraordinary circumstances, within thirty (30) calendar days of its receipt of a complete and accurate BFR SBC WISCONSIN will provide to CLEC a preliminary analysis of such Request (the "Preliminary Analysis"). The Preliminary Analysis will (i) indicate that SBC WISCONSIN will offer the Request to CLEC or (ii) advise CLEC that SBC WISCONSIN will not offer the Request. If SBC WISCONSIN indicates it will not offer the Request, SBC WISCONSIN will provide a detailed explanation for the denial. Possible explanations may be, but are not limited to: (i) access to the Request is not technically feasible, (ii) that the Request is not for a Section 251(c)(3) UNE, or is otherwise not required to be provided by SBC WISCONSIN under the Act and/or, (iii) that the BFR is not the correct process for the request.
- 6.3.9 If the Preliminary Analysis indicates that SBC WISCONSIN will offer the Request, CLEC may, at its discretion, provide written authorization for SBC WISCONSIN to develop the Request and prepare a "BFR Quote". The BFR Quote shall, as applicable, include (i) the first date of availability, (ii) installation intervals, (iii) applicable rates (recurring, nonrecurring and other), (iv) BFR development and processing costs and (v) terms and conditions by which the Request shall be made available. CLEC's written authorization to develop the BFR Quote must be received by SBC WISCONSIN, within thirty (30) calendar days of CLEC's receipt of the Preliminary Analysis. If no authorization to proceed is received within such thirty (30) calendar day period, the BFR will be deemed canceled and CLEC will pay to SBC WISCONSIN, all demonstrable costs as set forth above. Any request by CLEC for SBC WISCONSIN, to proceed with a Request received after the thirty (30) calendar day window will require CLEC to submit a new BFR.
- 6.3.10 As soon as feasible, but not more than ninety (90) calendar days after its receipt of authorization to develop the BFR Quote, SBC WISCONSIN shall provide to CLEC a BFR Quote.
- 6.3.11 Within thirty (30) calendar days of its receipt of the BFR Quote, CLEC must either (i) confirm its order pursuant to the BFR Quote (ii) cancel its BFR and reimburse SBC WISCONSIN for its costs incurred up to the date of cancellation, or (iii) if it believes the BFR Quote is inconsistent with the requirements of the Act and/or this Appendix, exercise its rights under the Dispute Resolution

Process set forth in the General Terms and Conditions of this Agreement. If SBC WISCONSIN does not receive notice of any of the foregoing within such thirty (30) calendar day period, the BFR shall be deemed canceled. CLEC shall be responsible to reimburse SBC WISCONSIN, for its costs incurred up to the date of cancellation (whether affirmatively canceled or deemed canceled by CLEC).

6.3.12 Unless CLEC agrees otherwise, all rates and costs quoted or invoiced herein shall be consistent with the pricing principles of the Act.

6.3.13 If a Party believes that the other Party is not requesting, negotiating or processing a BFR in good faith and/or as required by the Act, or if a Party disputes a determination, or price or cost quote, such Party may seek relief pursuant to the Dispute Resolution Process set forth in the General Terms and Conditions section of this Agreement.

7. NETWORK INTERFACE DEVICE

- 7.1 Subject to Section 2 of this Appendix Section 251(c)(3) UNE, SBC WISCONSIN shall provide Section 251(c)(3) UNE Network Interface Device under the following terms and conditions in this subsection.
- 7.2 The Section 251(c)(3) UNE Network Interface Device (NID) is defined as any means of interconnection of End User premises wiring to SBC WISCONSIN's distribution loop facilities, such as a cross connect device used for that purpose. Fundamentally, the Section 251(c)(3) UNE NID establishes the final (and official) network Demarcation Point between the loop and the End User's inside wire. Maintenance and control of the End User's inside wiring (on the End User's side of the Section 251(c)(3) UNE NID) is under the control of the End User. Conflicts between telephone service providers for access to the End User's inside wire must be resolved by the End User. Pursuant to applicable FCC rules, SBC WISCONSIN offers nondiscriminatory access to the Section 251(c)(3) UNE NID on an unbundled basis to CLEC for the provision of a Telecommunications Service. CLEC access to the Section 251(c)(3) UNE NID is offered as specified below (SBC WISCONSIN).
- 7.3 SBC WISCONSIN will permit CLEC to connect its local loop facilities to End Users' premises wiring through SBC WISCONSIN's Section 251(c)(3) UNE NID, or at any other technically feasible point.
- 7.4 CLEC may connect to the End User's premises wiring through the SBC WISCONSIN Section 251(c)(3) UNE NID, as is, or at any other technically feasible point. Any repairs, upgrade and rearrangements to the Section 251(c)(3) UNE NID required by CLEC will be performed by SBC WISCONSIN based on Time and Material charges as provided in the Pricing Appendix. SBC WISCONSIN, at the request of CLEC, will disconnect the SBC WISCONSIN local loop from the Section 251(c)(3) UNE NID, at charges reflected in the state specific Appendix Pricing.
- 7.5 With respect to multiple dwelling units or multiple-unit business premises, CLEC will connect directly with the End User's premises wire, or may connect with the End User's premises wire via SBC WISCONSIN's Section 251(c)(3) UNE NID where necessary.
- 7.6 The SBC WISCONSIN Section 251(c)(3) UNE NIDs that CLEC uses under this Appendix will be existing Section 251(c)(3) UNE NIDs installed by SBC WISCONSIN to serve its End Users.
- 7.7 CLEC shall not attach to or disconnect SBC WISCONSIN's ground. CLEC shall not cut or disconnect SBC WISCONSIN's loop from the Section 251(c)(3) UNE NID and/or its protector. CLEC shall not cut any other leads in the Section 251(c)(3) UNE NID.
- 7.8 CLEC, who has constructed its own NID at a premises and needs only to make contact with SBC WISCONSIN's Section 251(c)(3) UNE NID, can disconnect the End User's wiring from SBC WISCONSIN's Section 251(c)(3) UNE NID and reconnect it to the CLEC's NID.
- 7.9 If CLEC requests a different type of Section 251(c)(3) UNE NID not included with the loop, SBC WISCONSIN will consider the requested type of Section 251(c)(3) UNE NID to be facilitated via the Bona Fide Request (BFR) Process.

8. SECTION 251(C)(3) UNE LOCAL LOOP

- 8.1 Subject to Section 2 of this Appendix Section 251(c)(3) UNEs, **SBC WISCONSIN** shall provide Section 251(c)(3) UNE Local Loop under the following terms and conditions in this subsection.
- 8.2 Pursuant to applicable FCC rules, a local loop network element is a transmission facility between a distribution frame (or its equivalent) in an **SBC WISCONSIN** Central Office and the loop Demarcation Point at an End User premises. Therefore, consistent with the applicable FCC rules, **SBC WISCONSIN** will make available the Section 251(c)(3) UNE Local Loops set forth herein below between a distribution frame (or its equivalent) in an **SBC WISCONSIN** Central Office and the loop Demarcation Point at an End User premises. The Parties acknowledge and agree that **SBC WISCONSIN** shall not be obligated to provision any of the Section 251(c)(3) UNE Local Loops provided for herein to cellular sites or to any other location that does not constitute an End User premises. Where applicable, the Section 251(c)(3) UNE Local Loop includes all wire within multiple dwelling and tenant buildings and campuses that provides access to End User premises wiring, provided such wire is owned and controlled by **SBC WISCONSIN**. The Section 251(c)(3) UNE Local Loop includes all features, functions and capabilities of the transmission facility, including attached electronics (except those electronics used for the provision of advanced services, such as Digital Subscriber Line Access Multiplexers), and CLEC requested line conditioning (subject to applicable charges in Appendix Pricing). The Section 251(c)(3) UNE Local Loop includes, but is not limited to copper loops (two-wire and four-wire analog voice-grade copper loops, digital copper loops [e.g., DS0s and integrated services digital network lines]), as well as two-wire and four-wire copper loops conditioned, at CLEC request and subject to charges, to transmit the digital signals needed to provide digital subscriber line services), Section 251(c)(3) UNE DS1 Digital Loops (where they have not been Declassified and subject to caps set forth in Section 8.3.4.4.1) and Section 251(c)(3) UNE DS3 Digital Loops (where they have not been Declassified and subject to caps set forth in Section 8.3.5.4.1), where such loops are deployed and available in **SBC WISCONSIN** Wire Centers. CLEC agrees to operate each loop type within applicable technical standards and parameters.
- 8.2.1 When a Section 251(c)(3) UNE Local Loop is ordered to a high voltage area, the Parties understand and agree that such loop will require a High Voltage Protective Equipment (HVPE) (e.g., a positron), to ensure the safety and integrity of the network, the Parties' employees and/or representatives, and the CLEC's End User. Therefore, any request by CLEC for a Section 251(c)(3) UNE Local Loop to a high voltage area will be submitted by CLEC to **SBC WISCONSIN** via the BFR process set forth in Section 6 hereinabove and CLEC shall be required to pay **SBC WISCONSIN** for any HVPE that is provisioned by **SBC WISCONSIN** to CLEC in connection with the CLEC's Section 251(c)(3) UNE Local Loop order to the high voltage area.
- 8.3 The following types of Section 251(c)(3) UNE Local Loops will be provided at the rates, terms, and conditions set forth in this Appendix **SBC WISCONSIN**
- 8.3.1 2-Wire Analog Loop
- 8.3.1.1 A 2-Wire analog loop is a transmission facility which supports analog voice frequency, voice band services with loop start signaling within the frequency spectrum of approximately 300 Hz and 3000 Hz.
- 8.3.1.2 If CLEC requests one or more Section 251(c)(3) UNE loops serviced by Integrated Digital Loop Carrier (IDLC) **SBC WISCONSIN** will, where available, move the requested loop(s) to a spare, existing all-copper or universal digital loop carrier Section 251(c)(3) UNE loop at no additional charge to CLEC. If, however, no spare Section 251(c)(3) UNE loop is available, as defined above, **SBC WISCONSIN** will within two (2) business days of CLEC's request, notify CLEC of the lack of available facilities.
- 8.3.2 4-Wire Analog Loop
- 8.3.2.1 A 4-Wire analog loop is a transmission facility that provides a non-signaling voice band frequency spectrum of approximately 300 Hz to 3000 Hz. The 4-Wire analog loop provides separate transmit and receive paths.

8.3.3 2-Wire Digital Loop

8.3.3.1 A 2-Wire 160 Kbps digital loop is a transmission facility which supports Basic Rate ISDN (BRI) digital exchange services. The 2-Wire digital loop 160 Kbps supports usable bandwidth up to 160 Kbps, including overhead.

8.3.4 DS1 Digital Loop

8.3.4.1 A DS1 Digital Loop (DS1) is a transmission facility that will support DS1 service including Primary Rate ISDN (PRI). The DS1 Digital Loop supports usable bandwidth up to 1.544 Mbps.

8.3.4.2 DS1 Section 251(c)(3) UNE Digital Loops will be offered and/or provided only where such Loops have not been Declassified.

8.3.4.3 The procedures set forth in Section 8.4, below will apply in the event DS1 Digital Loops (DS1) are or have been Declassified.

8.3.4.4 DS1 Loop "Caps"

8.3.4.4.1 **SBC WISCONSIN** is not obligated to provide to CLEC more than ten (10) DS1 Section 251(c)(3) UNE loops per requesting carrier to any single building in which DS1 Loops have not been otherwise Declassified; accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering unbundled DS1 Loops once CLEC has already obtained ten DS1 Section 251(c)(3) UNE Loops at the same building. If, notwithstanding this Section, CLEC submits such an order, at **SBC WISCONSIN's** option it may accept the order, but convert any requested DS1 Section 251(c)(3) UNE Loop(s) in excess of the cap to Special Access, and applicable Special Access charges will apply to CLEC for such DS1 Loop(s) as of the date of provisioning.

8.3.5 DS3 Digital Loop

8.3.5.1 The DS3 loop provides a digital, 45 Mbps transmission facility from the **SBC WISCONSIN** Central Office to the end user premises.

8.3.5.2 DS3 Section 251(c)(3) UNE loops will be offered and/or provided only where such Loops have not been Declassified.

8.3.5.3 The procedures set forth in Section 8.4, below will apply in the event DS3 Digital Loops are or have been Declassified.

8.3.5.4 DS3 Loop "Caps"

8.3.5.4.1 **SBC WISCONSIN** is not obligated to provide to CLEC more than one (1) DS3 Section 251(c)(3) UNE loop per requesting carrier to any single building in which DS3 Loops have not been otherwise Declassified; accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering unbundled DS3 Loops once CLEC has already obtained one DS3 Section 251(c)(3) UNE loop to the same building. If, notwithstanding this Section, CLEC submits such an order, at **SBC WISCONSIN's** option it may accept the order, but convert any requested DS3 Section 251(c)(3) UNE Loop(s) in excess of the cap to Special Access, and applicable Special Access charges will apply to CLEC for such DS3 Loop(s) as of the date of provisioning.

8.4 Declassification Procedure

8.4.1 **DS1.** Subject to the cap described in Section 8.3.4.4.1, **SBC WISCONSIN** shall provide CLEC with access to a DS1 Section 251(c)(3) UNE Digital Loop, where available, to any building **not** served by a Wire Center with 60,000 or more business lines and four or more (4) fiber-based collocators. Once a Wire Center exceeds these thresholds, no future DS1 Digital Loop unbundling will be required in

that Wire Center, or any buildings served by that Wire Center, and DS1 Digital Loops in that Wire Center, or any buildings served by that Wire Center, shall be Declassified and no longer available as Section 251(c)(3) UNEs under this Agreement. Accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering DS1 Section 251(c)(3) UNE Digital Loops in such Wire Center(s), or any buildings served by such Wire Center(s).

8.4.2 **DS3.** Subject to the cap described in Section 8.3.5.4.1, SBC WISCONSIN shall provide CLEC with access to a DS3 Section 251(c)(3) UNE Digital Loop, where available, to any building **not** served by a Wire Center with at least 38,000 business lines and at least four (4) fiber-based collocators. Once a Wire Center exceeds these thresholds, no future DS3 Digital Loop unbundling will be required in that Wire Center, or any buildings served by that Wire Center, and DS3 Digital Loops in that Wire Center, or any buildings served by that Wire Center, shall be Declassified, and no longer available as Section 251(c)(3) UNEs under this Agreement. Accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering DS3 Section 251(c)(3) UNE Digital Loops in such Wire Center(s), or any buildings served by such Wire Center(s).

8.4.3 **Effect on Embedded Base.** Upon Declassification of DS1 Digital Loops or DS3 Digital Loops already purchased by CLEC as Section 251(c)(3) UNEs under this Agreement, **SBC WISCONSIN** will provide written notice to CLEC of such Declassification, and proceed in accordance with Section 2.5 “Transition Procedure.”

8.4.3.1 Products provided by **SBC WISCONSIN** in conjunction with such Loops (e.g. Cross-Connects) shall also be subject to re-pricing under this Section and Section 2.5 “Transition Procedure” where such Loops are Declassified.

8.4.4 The Parties agree that activity by **SBC WISCONSIN** under this Section 8.4 shall not be subject to the Network Disclosure Rules.

8.5 Routine Network Modifications – Section 251(c)(3) UNE Local Loops

8.5.1 **SBC WISCONSIN** shall make routine network modifications to Section 251(c)(3) UNE Local Loop facilities used by requesting Telecommunications Carriers where the requested Section 251(c)(3) UNE Local Loop facility has already been constructed. **SBC WISCONSIN** shall perform routine network modifications to Section 251(c)(3) UNE Local Loop facilities in a nondiscriminatory fashion, without regard to whether the Section 251(c)(3) UNE Local Loop facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier.

8.5.2 A routine network modification is an activity that **SBC WISCONSIN** regularly undertakes for its own customers. Routine network modifications include rearranging or splicing of existing cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer; and attaching electronic and other equipment that the incumbent LEC ordinarily attaches to activate such loops for its own retail customers, under the same conditions and in the same manner that **SBC WISCONSIN** does for its own end user customers. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable and installing equipment casings. **SBC WISCONSIN** will place drops in the same manner as it does for its own customers.

8.5.3 Routine network modifications do not include constructing new Section 251(c)(3) UNE Loops; installing new cable; securing permits or rights-of-way; constructing and/or placing new manholes or conduits; installing new terminals; removing or reconfiguring packetized transmission facility.. **SBC WISCONSIN** is not obligated to perform those activities for a requesting Telecommunications Carrier.

8.5.4 **SBC WISCONSIN** shall determine whether and how to perform routine network modifications using the same network or outside plant engineering principles that would be applied in providing service to **SBC WISCONSIN**'s retail customers.

- 8.5.5 This Agreement does not require **SBC WISCONSIN** to deploy time division multiplexing-based features, functions and capabilities with any copper or fiber packetized transmission facility to the extent **SBC WISCONSIN** has not already done so; remove or reconfigure packet switching equipment or equipment used to provision a packetized transmission path; reconfigure a copper or fiber packetized transmission facility to provide time division multiplexing-based features, functions and capabilities; to deploy TDM voice grade transmission capacity into new or existing networks that never had TDM capability; nor does this Agreement prohibit **SBC WISCONSIN** from upgrading an end user customer from a TDM-based service to a packet switched or packet transmission service, or removing copper loops or subloops from the network, provided **SBC WISCONSIN** complies with the copper loop or copper subloop retirement rules in 47 C.F.R. 51.319(a)(3)(iii),.
- 8.5.6 Notwithstanding anything to the contrary herein, **SBC WISCONSIN's** obligations with respect to routine network modifications apply only where the loop transmission facilities are subject to unbundling and, as to access to the TDM capabilities of **SBC WISCONSIN's** hybrid loops, only with respect to any existing capabilities of **SBC WISCONSIN's** hybrid loops. **SBC WISCONSIN** has no obligation to perform routine network modifications in connection with FTTH loops or FTTC loops.
- 8.5.7 **SBC WISCONSIN** shall provide routine network modifications at the rates, terms and conditions set out in this Appendix (**SBC WISCONSIN**), and in the state specific Appendix Pricing (**SBC WISCONSIN**) or by tariff, as such tariff may be modified from time to time (**SBC WISCONSIN**). A rate for any routine network modification shown as "ICB" in Appendix Pricing or the applicable tariff indicates that the Parties have not negotiated, and/or that the State Commission has not reviewed and approved, a specific rate for that routine network modification. The ICB rate shall be determined on an individual case basis and shall reflect an engineering estimate of the actual costs of time and materials required to perform the routine network modification; provided, however, that the ICB rate shall not include any costs already recovered through existing, applicable recurring and non-recurring charges. The resulting ICB rates shall continue to apply to such routine network modifications unless and until the Parties negotiate specific rates for such routine network modifications or specific rates are otherwise established for such routine network modifications.
- 8.6 Section 251(c)(3) UNE DS1 and DS3 Loops may not be employed in combination with transport facilities to replace Special Access services or facilities, except consistently with the other terms and conditions of this Agreement, including but not limited to, Section 2.16 of this Appendix.
- 8.7 xDSL Subloop is as defined in the xDSL and Line Splitting Appendix, if any, and will be available to CLEC in the **SBC WISCONSIN** state in those instances where CLEC has an approved and effective xDSL and Line Splitting Appendix as a part of this Agreement. In addition to the provisions set forth in the xDSL and Line Splitting Appendix, the xDSL Subloop is subject to the subloop terms and conditions set forth in this Section 9, the Collocation provisions set forth elsewhere in this Agreement and the rates set forth in the Appendix Pricing. If there is any conflict between the provisions set forth in the xDSL and Line Splitting Appendix as to the xDSL Subloop and the subloop provisions set forth in this Section 9, the subloop provisions set forth in Section 9 shall control.

9. SECTION 251(C)(3) UNE SUBLOOPS

- 9.1 Subject to the other terms and conditions of this Appendix, **SBC WISCONSIN** shall provide Section 251(c)(3) UNE Subloops under the following terms and conditions in this subsection.
- 9.2 **SBC WISCONSIN** will provide copper Section 251(c)(3) UNE Subloops as set forth in this Appendix. Other than as specifically set out elsewhere in this Agreement, **SBC CONNECTICUT** does not offer Section 251(c)(3) UNE Subloops under this Agreement. Rather, Section 251(c)(3) UNE Subloops are available as described in Section 18 of the Connecticut Service Tariff.
- 9.2.1 A Section 251(c)(3) UNE Subloop is a smaller included segment of **SBC WISCONSIN's** Section 251(c)(3) UNE local loop plant, i.e., a portion of the Section 251(c)(3) UNE Loop from some technically accessible terminal beyond **SBC WISCONSIN's** Central Office and the network

Demarcation Point, including that portion of the Section 251(c)(3) UNE Loop, if any, which **SBC WISCONSIN**'s owns and controls inside the End User premises.

9.3 Definitions pertaining to the Section 251(c)(3) UNE Subloop

- 9.3.1 Accessible terminals contain cables and their respective wire pairs that terminate on screw posts. This allows technicians to affix cross connects between binding posts of terminals collocated at the same point. Terminals differ from splice cases, which are inaccessible because the case must be breached to reach the wires within.
- 9.3.2 "Dead Count" refers to those binding posts which have cable spliced to them but which cable is not currently terminated to any terminal to provide service.
- 9.3.3 "Demarcation Point" is defined as the point on the loop where the ILEC's control of the wire ceases and the subscriber's control (or on the case of some multiunit premises, the landlord's control) of the wire begins.
- 9.3.4 "Digital Section 251(c)(3) UNE Subloop" may be deployed on non-loaded copper cable pairs, channels of a digital loop carrier system, channels of a fiber optic transport system or other technologies suitable for the purpose of providing 160 Kbps Section 251(c)(3) UNE Subloop transport.
- 9.3.5 "Distribution Cable" is defined as the cable from the SAI/FDI to the terminals from which an end user can be connected to the ILEC's network.
- 9.3.6 "MTE" for the purpose of Term To NID Section 251(c)(3) UNE Subloop. "MTE" is a Multi Tenant Environment for buildings with exterior or interior mounted terminals.
- 9.3.7 "Network Terminating Wire (NTW)" is the service wire that connects the ILEC's distribution cable to the NID at the Demarcation Point.
- 9.3.8 "SAI/FDI-to-Term Section 251(c)(3) UNE Subloop" is that portion of the Section 251(c)(3) UNE Loop from the SAI/FDI to an accessible terminal.
- 9.3.9 "SAI/FDI-to-NID Section 251(c)(3) UNE Subloop" is that portion of the Section 251(c)(3) UNE Loop from the SAI/FDI to the Network Interface Device (NID), which is located on an end user's premise.
- 9.3.10 "SPOI" is defined as a Single Point of Interconnection. At the request of CLEC, and subject to charges, **SBC WISCONSIN** will construct a SPOI only to those multiunit premises where **SBC WISCONSIN** has distribution facilities to the premises and **SBC WISCONSIN** either owns, controls, or leases the inside wire, if any, at such premises. If **SBC WISCONSIN** has no facilities which it owns, controls or leases at a multiunit premises through which it serves, or can serve, End Users at such premises, it is not obligated to construct a SPOI. **SBC WISCONSIN**'s obligation to build a SPOI for multiunit premises only arises when CLEC indicates that it will place an order for a Section 251(c)(3) UNE Subloop via a SPOI.
- 9.3.11 "SAI/FDI" is defined as the point in the ILEC's network where feeder cable is cross connected to the distribution cable. "SAI" is Serving Area Interface. "FDI" is Feeder Distribution Interface. The terms are interchangeable.
- 9.3.12 "Term-to-NID Section 251(c)(3) UNE Subloop" is that portion of the Section 251(c)(3) UNE Loop from an accessible terminal to the NID, which is located at an end user's premise. Term-to-NID Section 251(c)(3) UNE Subloop includes use of the Network Terminating Wire (NTW).

9.4 **SBC WISCONSIN** will offer the following Section 251(c)(3) UNE Subloop types:

- 9.4.1 2-Wire Analog Section 251(c)(3) UNE Subloop provides a 2-wire (one twisted pair cable or equivalent) capable of transporting analog signals in the frequency range of approximately 300 to 3000 hertz (voiceband).
- 9.4.2 4-Wire Analog Section 251(c)(3) UNE Subloop provides a 4-wire (two twisted pair cables or equivalent, with separate transmit and receive paths) capable of transporting analog signals in the frequency range of approximately 300 to 3000 hertz (voiceband).

- 9.4.3 Section 251(c)(3) UNE xDSL Subloop is as defined in the xDSL and Line Splitting Appendix will be available to CLEC in the **SBC WISCONSIN** states in those instances where CLEC has an approved and effective xDSL and Line Splitting Appendix as a part of this Agreement. In addition to the provisions set forth in the xDSL and Line Splitting Appendix, the Section 251(c)(3) UNE xDSL Subloop is subject to the Section 251(c)(3) UNE subloop terms and conditions set forth in this Appendix, the Collocation provisions set forth elsewhere in this Agreement and the rates set forth in the Appendix Pricing. If there is any conflict between the provisions set forth in the xDSL and Line Splitting Appendix as to the Section 251(c)(3) UNE xDSL Subloop and the Section 251(c)(3) UNE subloop provisions set forth in this Appendix, the Section 251(c)(3) UNE subloop provisions set forth in this Appendix shall control.
- 9.4.4 As no other type of Subloop constitutes a Section 251(c)(3) UNE subloop, **SBC WISCONSIN** is not obligated under this Section 251/252 Agreement to provide any other type of subloop. CLEC shall not request such subloops under this Agreement, whether alone, in combination or Commingled. Accordingly, if CLEC requests and **SBC WISCONSIN** provides a subloop(s) that is not described or provided for in this Agreement, **SBC WISCONSIN** may, at any time, even after the subloop(s) has been provided to CLEC, discontinue providing such subloop(s) (including any combination(s) including that subloop) upon 30 days' advance written notice to CLEC. Without affecting the application or interpretation of any other provisions regarding waiver, estoppel, laches, or similar concepts in other situations, the failure of **SBC WISCONSIN** to refuse to provide, including if **SBC WISCONSIN** provides or continues to provide, access to such subloop(s) (whether on a stand-alone basis, in combination with UNEs (Section 251(c)(3) or otherwise), with a network element possessed by CLEC, or otherwise), shall not act as a waiver of any part of this Agreement, and estoppel, laches, or other similar concepts shall not act to affect any rights or requirements hereunder.
- 9.5 Intentionally Left Blank.
- 9.6 Section 251(c)(3) UNE Subloops are provided "as is" unless CLEC requests loop conditioning on Section 251(c)(3) UNE xDSL Subloops for the purpose of offering advanced services. Section 251(c)(3) UNE xDSL Subloop conditioning will be provided at the rates, terms, and conditions set out in the state specific Appendix Pricing.
- 9.7 If a Term to NID Section 251(c)(3) UNE Subloop has been disconnected and thus an end-user is no longer receiving service via that Section 251(c)(3) UNE Subloop, and such Section 251(c)(3) UNE Subloop has been determined to be a non-defective pair, then that Section 251(c)(3) UNE Subloop would be considered an existing spare portion of the loop, based on a first come first served basis.
- 9.8 Copper Section 251(c)(3) UNE Subloops
- 9.8.1 Access to terminals for copper Section 251(c)(3) UNE Subloops is defined to include:
- any technically feasible point near the End User premises accessible by a cross-connect (such as the pole or pedestal, the NID, or the minimum point of entry (MPOE) to the End User premises),
 - the Feeder Distribution Interface (FDI) or Serving Area Interface (SAI), where the "feeder" leading back to the Central Office and the "distribution" plant branching out to the subscribers meet,
 - the Terminal (underground or aerial).
- 9.9 CLEC may request access to the following copper Section 251(c)(3) UNE Subloop segments:
- | <u>FROM:</u> | <u>TO:</u> |
|---------------------------------------------------------------|--------------------------|
| 1. Serving Area Interface or
Feeder Distribution Interface | Terminal |
| 2. Serving Area Interface or
Feeder Distribution Interface | Network Interface Device |
| 3. Terminal | Network Interface Device |
| 4. NID | Stand Alone |

5. SPOI (Single Point of Interface) Terminal

9.10 Provisioning

- 9.10.1 Connecting Facility Arrangement (CFA) assignments must be in-place prior to ordering and assigning specific Section 251(c)(3) UNE Subloop circuit(s).
- 9.10.2 Spare Section 251(c)(3) UNE Subloop(s) will be assigned to CLEC only when an LSR/ASR is processed. LSR/ASRs will be processed on a "first come first serve" basis.

9.11 Maintenance

- 9.11.1 The Parties acknowledge that by separating switching, and distribution plant, the ability to perform mechanized testing and monitoring of the Section 251(c)(3) UNE Subloop from the **SBC WISCONSIN** switch/testing equipment will be lost.
- 9.11.2 CLEC shall isolate trouble to the **SBC WISCONSIN** Section 251(c)(3) UNE Subloop portion of the CLEC's service before reporting trouble to **SBC WISCONSIN**.
- 9.11.3 **SBC WISCONSIN** shall charge the CLEC a Maintenance of Service Charge (MSC) when CLEC dispatches **SBC WISCONSIN** on a trouble report and the fault is determined to be in the CLEC's portion of the loop. Such charges may be found in the individual state pricing appendices or tariffs.
- 9.11.4 Once all Section 251(c)(3) UNE Subloop access arrangements have been completed and balance of payment due **SBC WISCONSIN** is received, the CLEC may place a LSR for Subloops at this location. Prices at which **SBC WISCONSIN** agrees to provide CLEC with Section 251(c)(3) UNE Subloops are contained in the state specific Appendix Pricing.
- 9.11.5 In the event of Catastrophic Damage to the RT, SAI/FDI, Terminal, SPOI, or NID where CLEC has a SAA, **SBC WISCONSIN** repair forces will restore service in a non-discriminatory manner which will allow the greatest number of all End Users to be restored in the least amount of time. Should the CLEC cabling require replacement, **SBC WISCONSIN** will provide prompt notification to CLEC for CLEC to provide the replacement cable to be terminated as necessary.

9.12 Section 251(c)(3) UNE Subloop Access Arrangements

- 9.12.1 Prior to ordering Section 251(c)(3) UNE Subloop facilities, CLEC will establish Collocation using the Collocation process as set forth in the Collocation Appendix, or will establish a Section 251(c)(3) UNE Subloop Access Arrangement ('SAA') utilizing the Special Construction Arrangement (SCA), either of which are necessary to interconnect to the **SBC WISCONSIN** Section 251(c)(3) UNE Subloop network.
- 9.12.2 The space available for collocating or obtaining various Section 251(c)(3) UNE Subloop Access Arrangements will vary depending on the existing plant at a particular location. The CLEC will initiate an SCA by submitting a Section 251(c)(3) UNE Subloop Access Arrangement Application.
- 9.12.3 Upon receipt of a complete and correct application, **SBC WISCONSIN** will provide to CLEC within 30 days a written estimate for the actual construction, labor, materials, and related provisioning costs incurred to fulfill the SCA on a Time and Materials basis. When CLEC submits a request to provide a written estimate for Section 251(c)(3) UNE Subloop access, appropriate rates for the engineering and other associated costs performed will be charged.
- 9.12.4 The assignment of Section 251(c)(3) UNE Subloop facilities will incorporate reasonable practices used to administer outside plant loop facilities. For example, where SAI/FDI interfaces are currently administered in 25 pair cable complements, this will continue to be the practice in assigning and administering Section 251(c)(3) UNE Subloop facilities.
- 9.12.5 Subloop inquiries do not serve to reserve Section 251(c)(3) UNE Subloops.

- 9.12.6 Several options exist for Collocation or Section 251(c)(3) UNE Subloop Access Arrangements at technically feasible points. Sound engineering judgment will be utilized to ensure network security and integrity. Each situation will be analyzed on a case-by-case basis.
- 9.12.7 CLEC will be responsible for obtaining rights of way from owners of property where **SBC WISCONSIN** has placed the equipment necessary for the SAA prior to submitting the request for SCA.
- 9.12.8 Prior to submitting the Section 251(c)(3) UNE Subloop Access Arrangement Application for SCA, the CLEC should have the "Collocation" and the "Structure Access" appendices in the Agreement to provide the guidelines for both CLEC and ILEC to successfully implement Section 251(c)(3) UNE Subloops, should Collocation, access to poles/conduits or rights of way be required.
- 9.12.9 Except as set forth below in this 9.12.9, construction of the Section 251(c)(3) UNE Subloop Access Arrangement shall be completed within 90 days of CLEC submitting to **SBC WISCONSIN** written approval and payment of not less than 50% of the total estimated construction costs and related provisioning costs after an estimate has been accepted by the carrier and before construction begins, with the balance payable upon completion. **SBC WISCONSIN** will not begin any construction under the SCA until the CLEC has provided proof that it has obtained necessary rights of way as defined in Section 9.12.7. In the event CLEC disputes the estimate for an SAA in accordance with the dispute resolution procedures set forth in this Agreement, **SBC WISCONSIN** will proceed with construction of the SAA upon receipt from CLEC of notice of the dispute and not less than fifty percent (50%) of the total estimated costs, with the balance payable by CLEC upon completion of the SAA. Such payments may be subject to any "true-up", if applicable, upon resolution of the dispute in accordance with the Dispute Resolution procedures.
- 9.12.10 Upon completion of the construction activity, the CLEC will be allowed to test the installation with a **SBC WISCONSIN** technician. If the CLEC desires test access to the SAA, the CLEC should place its own test point in its cable prior to cable entry into **SBC WISCONSIN**'s interconnection point.
- 9.12.11 A non-binding CLEC forecast shall be required as a part of the request for SAA. This will allow **SBC WISCONSIN** to properly engineer access to each SAI and to ensure **SBC WISCONSIN** does not provide more available terminations than the CLEC expects to use.
- 9.12.12 In order to maximize the availability of terminations for all CLECs, the CLEC shall provide CFA for their Section 251(c)(3) UNE Subloop pairs utilizing the same 25-pair binder group. The CLEC would begin utilizing the second 25-pair binder group once the first 25-pair binder group reached its capacity.
- 9.12.13 Unused CLEC terminations (in normal splicing increments such as 25-pair at a SAI/FDI) which remain unused for a period of one year after the completion of construction shall be subject to removal at CLEC expense.
- 9.12.14 In the event a CLEC elects to discontinue use of an existing SAA, or abandons such arrangement, CLEC shall pay **SBC WISCONSIN** for removal of their facilities from the SAA.
- 9.13 **Section 251(c)(3) UNE Subloop Access Arrangement (SAA) Access Points**
- 9.13.1 SAI/FDI, ECS, SPOI, or Terminal
- 9.13.1.1 CLEC cable to be terminated in a **SBC WISCONSIN** SAI/FDI, or Terminal, shall consist of 22 or 24-gauge copper twisted pair cable bonded and grounded to the power company Multi Grounded Neutral (MGN). Cable may be filled if buried or buried to aerial riser cable. CLEC's Aerial cables should be aircore.
- 9.13.1.2 The CLEC may elect to place their cable to within 3 feet of the SAA site and coil up an amount of cable, defined by the engineer in the design phase, that **SBC WISCONSIN** will terminate on available binding posts in the SAI/FDI or Terminal.

9.13.1.3 The CLEC may “stub” up a cable at a prearranged meet point, defined during the engineering site visit, and **SBC WISCONSIN** will stub out a cable from the SAI/FDI or Terminal, which **SBC WISCONSIN** will splice to the CLEC cable at the meet point.

9.13.1.4 Dead counts will be offered as long as they have not been placed for expansion purposes planned within the 12-month period beginning on the date of the inquiry LSR.

9.14 **Relocation of Existing ILEC/CLEC Facilities involved in a SAA at a RT/ECS, SAI/FDI, SPOI, Terminal or NID**

9.14.1 **SBC WISCONSIN** shall notify CLEC of pending relocation as soon as **SBC WISCONSIN** receives such notice.

9.14.2 CLEC shall notify **SBC WISCONSIN** of its intentions to remain, or not, in the SAA by way of a new Section 251(c)(3) UNE Subloop Access Arrangement Application for a new SCA.

9.14.3 **SBC WISCONSIN** shall then provide the CLEC an estimate to terminate their facilities as part of the relocation of the site including the applicable SAA. This process may require a site visit with the CLEC and **SBC WISCONSIN** engineer.

9.14.4 CLEC shall notify **SBC WISCONSIN** of acceptance or rejection of the new SCA within 10 Business Days of its receipt of **SBC WISCONSIN**'s estimate.

9.14.5 Upon acceptance of the **SBC WISCONSIN** estimate, CLEC shall pay at least 50% of the relocation costs at the same time as they notify **SBC WISCONSIN** of their acceptance of estimate costs.

9.14.6 Should CLEC decide not to continue the SAA, CLEC will notify **SBC WISCONSIN** as to the date that **SBC WISCONSIN** may remove CLEC's facilities from that SAA. CLEC will pay **SBC WISCONSIN** for all costs associated with the removal of the CLEC's SAA.

9.14.7 In the event that CLEC does not respond to **SBC WISCONSIN** in time to have their facilities relocated, **SBC WISCONSIN** shall move CLEC facilities and submit a bill for payment to the CLEC for the costs associated with the relocation. Should CLEC elect not to pay this bill, then CLEC facilities will be removed from the site upon 30 days notice to the CLEC.

9.15 **Establishment of Intermediary Box for CLEC Access to Term to NID MTE Section 251(c)(3) UNE Subloop Segment**

9.15.1 As an alternative to the establishment of a Section 251(c)(3) UNE Subloop Access Arrangement in those instances where CLEC wishes to access/lease **SBC WISCONSIN** Term to NID Section 251(c)(3) UNE Subloop segments in order to serve its End Users at MTEs in **SBC WISCONSIN** (“Term to NID MTE Section 251(c)(3) UNE Subloop Segments”), CLEC may place, own and manage, for its own use, an intermediary box, which would provide CLEC with access to a Term to NID MTE Section 251(c)(3) UNE Subloop Segment cross-connect leased from **SBC WISCONSIN** within the intermediary box (in order to obtain access to **SBC WISCONSIN** Term to NID MTE Section 251(c)(3) UNE Subloop Segments). In the event CLEC wishes to access **SBC WISCONSIN** Term to NID MTE Section 251(c)(3) UNE Subloop Segments via the establishment of an intermediary box, the following rates, terms and conditions shall apply:

9.15.1.1 CLEC would manage the process for placing its own intermediary box, including, without limitation, coordination with the property owner and/or management. CLEC may, at its discretion, choose to retain ownership in whole or to share ownership of the intermediary box with other CLECs. Intermediary box shall be placed no more than two feet from the SBC terminal.

9.15.1.2 The intermediary box shall contain blocks that meet **SBC WISCONSIN**'s published industry standards for the placement of services and facilities and should be labeled with CLEC's ACNA to enable the **SBC WISCONSIN** technician the ability to run jumper/cross connect from **SBC WISCONSIN** terminal to the intermediary box.

- 9.15.1.3 LEC agrees that the **SBC WISCONSIN** technician shall run the jumper/cross-connect from **SBC WISCONSIN**'s serving terminal to CLEC's intermediary box, in order for CLEC to access **SBC WISCONSIN** Term to NID MTE Section 251(c)(3) UNE Subloop Segments in **SBC WISCONSIN**. For security and safety, SBC will incase the cross connect in conduit, a protective covered common path, between the SBC terminal and the CLEC's intermediary box.
- 9.15.1.4 CLEC must have in place Connecting Facility Arrangement (CFA) assignments prior to ordering and assigning specific Term to NID MTE Section 251(c)(3) UNE Subloop Segments from **SBC WISCONSIN**.
- 9.15.1.5 Following CLEC's provisioning, placement, and completion of Connecting Facility Arrangement Assignments ("CFA") data submission to **SBC WISCONSIN** associated with the intermediary box, CLEC would place orders and schedule activities related to access to the Term to NID MTE Section 251(c)(3) UNE Subloop Segment including, without limitation: transferring the End User's service from **SBC WISCONSIN** to CLEC, providing **SBC WISCONSIN** with CFA prior to ordering and the assigning of a specific Term to NID MTE Section 251(c)(3) UNE Subloop Segment(s).
- 9.15.1.6 The ordering procedures for the Term to NID MTE Section 251(c)(3) UNE Subloop Segment will be the same as those that apply to Section 251(c)(3) UNE Subloop today and shall be submitted to **SBC WISCONSIN** by CLEC via a Local Service Request ("LSR").
- 9.15.1.7 **SBC WISCONSIN** will upon receipt of the LSR from CLEC for a Term to NID MTE Section 251(c)(3) UNE Subloop Segment, process the order and place the jumper/cross connect to the CFA provided by the CLEC on the LSR, from the **SBC WISCONSIN** terminal to the CLEC intermediary box. **SBC WISCONSIN** must have access to the intermediary box for completion of the order.
- 9.15.2 In connection with the MTE intermediary box for CLEC access to Term to NID MTE Section 251(c)(3) UNE Subloop Segments in **SBC WISCONSIN** only, CLEC may elect to lease from **SBC WISCONSIN** Term to NID MTE Section 251(c)(3) UNE Subloop Segments which do not include traditional testing and the associated labor, at the recurring and non-recurring rates set forth in Appendix Pricing for the "Term to NID MTE Section 251(c)(3) UNE Subloop Segment." In the event CLEC wishes to lease the Term to NID MTE Section 251(c)(3) UNE Subloop Segment from **SBC WISCONSIN** in lieu of **SBC WISCONSIN**'s standard Term to NID Section 251(c)(3) UNE Subloop segment addressed in this 9.15.2, CLEC understands and agrees no performance measures and/or remedies shall apply to the Term to NID MTE Section 251(c)(3) UNE Subloop Segment as a result of the elimination of associated testing and reduction in functionality associated with the Term to NID MTE Section 251(c)(3) UNE Subloop Segment.
- 9.16 Establishment of Term to NID MTE Section 251(c)(3) UNE Subloop Segment When no Intermediary Box is installed
- 9.16.1 In those instances where CLEC elects not to install an intermediary box or to have **SBC WISCONSIN** install an intermediary box pursuant to the SAA process outlined herein above, the CLEC may still lease from **SBC WISCONSIN** Term to NID MTE Section 251(c)(3) UNE Subloop Segments which do not include traditional testing and the associated labor, at the recurring and non-recurring rates set forth in Appendix Pricing for the "Term to NID MTE Section 251(c)(3) UNE Subloop Segment". In the event CLEC wishes to lease the Term to NID MTE Section 251(c)(3) UNE Subloop Segment from **SBC WISCONSIN** in lieu of **SBC WISCONSIN**'s standard Term to NID Section 251(c)(3) UNE Subloop segment addressed in Section 9.15.2 above, CLEC understands and agrees no performance measures and/or remedies shall apply to the Term to NID MTE Section 251(c)(3) UNE Subloop Segment as a result of the elimination of associated testing and reduction in functionality associated with the Term to NID MTE Section 251(c)(3) UNE Subloop Segment. In such cases, **SBC WISCONSIN** will provide CLEC with access to the Term To NID MTE Section 251(c)(3) UNE Subloop via a cross connect. The SBC technician will tag appropriately and will

leave up to two feet of exposed wire at SBC WISCONSIN's terminal. The cross connect would then be terminated by the CLEC technician in the CLEC terminal, at a time of CLEC's own choosing. For security and safety, SBC will incase the cross connect in conduit, a protective covered common path, between the SBC terminal and the CLEC's terminal.

- 9.16.2 If CLEC elects this option to obtain access to the Term To NID Section 251(c)(3) UNE Subloop in an MTE Environment, neither the SBC WISCONSIN SAA process nor the intermediary box option would be required. Because the CLEC would have full responsibility for terminating the SBC WISCONSIN cross- connect, SBC WISCONSIN could not require any CFA information from CLEC.

10. ENGINEERING CONTROLLED SPLICE (ECS)

- 10.1 Subject to the other terms and conditions of this Appendix, SBC WISCONSIN shall provide to Engineering controlled Splice under the following terms and conditions in this subsection.
- 10.2 SBC WISCONSIN will also make available an Engineering Controlled Splice (ECS), which will be owned by SBC WISCONSIN, for CLECs to gain access to Section 251(c)(3) UNE Subloops at or near remote terminals.
- 10.3 The ECS shall be made available for Section 251(c)(3) UNE Subloop Access Arrangements (SAA) utilizing the Special Construction Arrangement (SCA).
- 10.3.1 CLEC requesting such a SCA shall pay all of the actual construction, labor, materials and related provisioning costs incurred to fulfill its SCA on a Time and Materials basis, provided that SBC WISCONSIN will construct any Section 251(c)(3) UNE Subloop Access Arrangement requested by a Telecommunications Carrier in a cost-effective and efficient manner. If SBC WISCONSIN elects to incur additional costs for its own operating efficiencies and that are not necessary to satisfy an SCA in a cost-effective and efficient manner, CLEC will not be liable for such extra costs.
- 10.3.2 CLEC shall be liable only for costs associated with cable pairs that it orders to be presented at an engineering controlled splice (regardless of whether the requesting carrier actually utilizes all such pairs), even if SBC WISCONSIN places more pairs at the splice.
- 10.3.3 Although SBC WISCONSIN will construct the engineering controlled splice, the ECS maybe owned by SBC WISCONSIN or the CLEC (depending on the specific arrangement) at the option of SBC WISCONSIN.
- 10.3.4 If more than one requesting Telecommunications Carrier obtains space in expanded remote terminals or adjacent structures and obtains an SAA with the new copper interface point at the ECS, the initial Telecommunications Carrier which incurred the costs of construction of the engineering controlled splice and/or additional copper/fiber shall be reimbursed those costs in equal proportion to the space or lines used by the requesting carriers.
- 10.3.5 SBC WISCONSIN may require a separate SCA for each remote terminal site.
- 10.3.6 Except as set forth below in this Section 10.3.6, written acceptance and at least 50% of payment for the SCA must be submitted at least 90 days before access to the copper Section 251(c)(3) UNE Subloop is to be provisioned by SBC WISCONSIN. If an augment of cabling is required between the ECS and the SAI, the interval for completion of the SCA will be determined on an individual case basis. SBC WISCONSIN will not begin any construction of the ECS until the CLEC has provided proof that it has obtained the necessary rights of way as defined in Section 9.12.7. In the event CLEC disputes the estimate for the ECS in accordance with the dispute resolution procedures set forth in this Agreement, SBC WISCONSIN will proceed with construction of the ECS upon receipt from CLEC of notice of the dispute and not less than fifty percent (50%) of the total estimated costs, with the balance payable by CLEC upon completion of the ECS. Such payments may be subject to any "true-up", if applicable, upon resolution of the dispute in accordance with the Dispute Resolution procedures.
- 10.4 CLECs will have two (2) options for implementing the ECS: a "Dedicated Facility Option" (DFO) and a "Cross-connected Facility Option" (CFO).

10.4.1 Dedicated Facility Option (DFO)

10.4.1.1 CLEC may request **SBC WISCONSIN** splice the existing cabling between the ECS and the SAI to the CLEC's SAA facility. This facility will be "dedicated" to the CLEC for subsequent Section 251(c)(3) UNE Subloop orders.

10.4.1.2 CLEC must designate the quantity of Section 251(c)(3) UNE Subloops they desire to access via this spliced, dedicated facility, specified by subtending SAI.

10.4.1.3 CLECs will compensate **SBC WISCONSIN** for each of the dedicated Section 251(c)(3) UNE Subloop facilities, based on recurring Section 251(c)(3) UNE Subloop charges, for the quantity of Section 251(c)(3) UNE Subloops dedicated to the CLEC between the ECS and the SAI.

10.4.2 Cross-connected Facility Option (CFO)

10.4.2.1 CLEC may request **SBC WISCONSIN** build an ECS cross-connect junction on which to terminate CLEC's SAA facility.

10.4.2.2 The SCA associated with this option will include the charges associated with constructing the cross-connect device, including the termination of **SBC WISCONSIN** cabling between the ECS and the RT and/or SAI, and the inventorying of that **SBC WISCONSIN** cabling.

10.4.2.3 CLEC must designate the quantity of Section 251(c)(3) UNE Subloops they desire to access via this cross-connectable, dedicated facility, specified by subtending SAI.

10.4.2.4 CLECs will compensate **SBC WISCONSIN** for the charges incurred by **SBC WISCONSIN** derived from the CLEC's request for the SCA.

10.5 The introduction of an ECS creates the following additional copper Section 251(c)(3) UNE Subloop segments:

FROM:

1. ECS
2. ECS
3. ECS

TO:

- Serving Area Interface or Feeder Distribution Interface
Terminal
NID

11. INTENTIONALLY OMITTED

12. INTENTIONALLY OMITTED

13. DS1 AND DS3 DEDICATED TRANSPORT

13.1 Subject to Section 2 of this Appendix Section 251(c)(3) UNEs, **SBC WISCONSIN** shall provide Section 251(c)(3) UNE DS1/DS3 Dedicated Transport under the following terms and conditions in this subsection.

13.2 For purposes of this Agreement, the following definitions apply:

13.2.1 "Dedicated Transport" is defined as **SBC WISCONSIN** interoffice transmission facilities between Wire Centers or switches owned by **SBC WISCONSIN**, or between Wire Centers or switches owned by **SBC WISCONSIN** and switches owned by requesting Telecommunications Carriers, dedicated to a particular customer or carrier.

13.2.1.1 **SBC WISCONSIN** is not obligated to provide CLEC with unbundled access to Dedicated Transport that does not connect a pair of **SBC WISCONSIN** Wire Centers.

13.2.2 A "route" is defined as a transmission path between one of **SBC WISCONSIN**'s Wire Centers or switches and another of **SBC WISCONSIN**'s Wire Centers or switches. A route between two points (e.g., Wire Center of switch "A" and Wire Center or switch "Z") may pass through one or more intermediate Wire Centers or switches (e.g. Wire Center or switch "X"). Transmission paths between identical end points (e.g., Wire Center or switch "A" and Wire Center or switch "Z") are the

same "route," irrespective of whether they pass through the same intermediate Wire Centers or switches, if any.

- 13.3 **SBC WISCONSIN** will be responsible for the engineering, provisioning, maintenance of the underlying equipment and facilities that are used to provide Section 251(c)(3) UNE DS1/DS3 Dedicated Transport.

13.3.1 Subject to the caps set forth in Sections 13.3.5 and 13.3.6, Section 251(c)(3) UNE DS1/DS3 Dedicated Transport will be provided only where such facilities exist at the time of CLEC request, and only over routes that are not or have not been Declassified.

13.3.3 **SBC WISCONSIN** will provide Section 251(c)(3) UNE DS1 and DS3 Transport to a requesting CLEC only at the following speeds: DS1 (1.544 Mbps) and DS3 (44.736 Mbps).

13.3.4 Section 251(c)(3) UNE DS1 and DS3 Transport includes, as follows:

13.3.4.1 Multiplexing – an option ordered in conjunction with Section 251(c)(3) UNE DS1 or DS3 Dedicated Transport which converts a circuit from higher to lower bandwidth, or from digital to voice grade. Multiplexing is only available when ordered at the same time as Section 251(c)(3) UNE DS1 or DS3 Dedicated Transport.

13.3.4.2 Other Optional features are outlined in Appendix Pricing.

13.3.5 DS3 Transport "Caps"

13.3.5.1 **SBC WISCONSIN** is not obligated to provide to CLEC more than twelve(12) DS3 Section 251(c)(3) UNE Dedicated Transport circuits on each route on which DS3 Dedicated Transport has not been otherwise Declassified; accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering unbundled DS3 Dedicated Transport once CLEC has already obtained twelve (12) DS3 Section 251(c)(3) UNE Dedicated Transport circuits on the same route. If, notwithstanding this Section, CLEC submits such an order, at **SBC WISCONSIN**'s option it may accept the order, but convert any requested DS3 Section 251(c)(3) UNE Dedicated Transport in excess of the cap to Special Access, and applicable Special Access charges will apply to CLEC for such DS3 Dedicated Transport circuits as of the date of provisioning.

13.3.6 DS1 Transport "Caps"

13.3.6.1 **SBC WISCONSIN** is not obligated to provide to CLEC more than ten (10) DS1 Section 251(c)(3) UNE Dedicated Transport circuits on each route on which DS1 Dedicated Transport has not been otherwise Declassified; accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering unbundled DS1 Dedicated Transport once CLEC has already obtained ten (10) DS1 Section 251(c)(3) UNE Dedicated Transport circuits on the same route. If, notwithstanding this Section, CLEC submits such an order, at **SBC WISCONSIN**'s option it may accept the order, but convert any requested DS1 Section 251(c)(3) UNE Dedicated Transport in excess of the cap to Special Access, and applicable Special Access charges will apply to CLEC for such DS1 Dedicated Transport circuits as of the date of provisioning

13.4 Diversity

13.4.1 When requested by CLEC, and subject to all applicable terms, conditions, and applicable charges, and only where such interoffice facilities exist at the time of CLEC request, Physical diversity shall be provided for Section 251(c)(3) UNE Dedicated Transport. Physical diversity means that two circuits are provisioned in such a way that no single failure of facilities or equipment will cause a failure on both circuits.

13.4.2 **SBC WISCONSIN** shall provide the Physical separation between intra-office and inter-office transmission paths when technically and economically feasible. Physical diversity requested by the CLEC shall be subject to additional charges. When additional costs are incurred by **SBC WISCONSIN** for CLEC specific diversity. **SBC WISCONSIN** will advise CLEC of the applicable

additional charges. **SBC WISCONSIN** will not process the request for diversity until CLEC accepts such charges. Any applicable performance measures will be abated from the time diversity is requested until CLEC accepts the additional charges.

13.5 Declassification Procedure

13.5.1 Wire Center “Tiers” -- For purposes of this Section 13.5 (and Section 14 related to Dark Fiber), Wire Centers are classified into three “tiers,” as follows:

- (i) Tier 1 Wire Centers are those ILEC Wire Centers that contain at least four fiber-based collocators, at least 38,000 business lines, or both. Tier 1 Wire Centers also are those ILEC Tandem switching locations that have no line-side switching facilities, but nevertheless serve as a point of traffic aggregation accessible by CLECs. Once a Wire Center is determined to be a Tier 1 Wire Center, that Wire Center is not subject to later reclassification as a Tier 2 or Tier 3 Wire Center.
- (ii) Tier 2 Wire Centers are those ILEC Wire Centers that are not Tier 1 Wire Centers, but contain at least 3 fiber-based collocators, at least 24,000 business lines, or both. Once a Wire Center is determined to be a Tier 2 Wire Center, that Wire Center is not subject to later reclassification as a Tier 3 Wire Center.
- (iii) Tier 3 Wire Centers are those ILEC Wire Centers that do not meet the criteria for Tier 1 or Tier 2 Wire Centers.

13.5.2 DS1 Transport Declassification

13.5.2.1 Subject to the cap described in Section 13.3.6, **SBC WISCONSIN** shall provide CLEC with access to Section 251(c)(3) UNE DS1 Dedicated Transport on routes, except routes where both Wire Centers defining the route are Tier 1 Wire Centers. As such SBC WISCONSIN must provide Section 251(c)(3) UNE DS1 Dedicated Transport under this Agreement only if a Wire Center at either end of a requested route is not a Tier 1 Wire Center, or if neither is a Tier 1 Wire Center. DS1 Dedicated Transport circuits on routes between Tier 1 Wire Centers are Declassified and no longer available as Section 251(c)(3) UNES under this Agreement. Accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering DS1 Section 251(c)(3) UNE Dedicated Transport on such route(s).

13.5.3 DS3 Transport Declassification

13.5.3.1 Subject to the cap described in Section 13.3.5, SBC WISCONSIN shall provide CLEC with access to Section 251(c)(3) UNE DS3 Dedicated Transport, except on routes where both Wire Centers defining the route are either Tier 1 or Tier 2 Wire Centers. As such SBC WISCONSIN must provide Section 251(c)(3) UNE DS3 Dedicated Transport under this Agreement only if a Wire Center on either end of the requested route is a Tier 3 Wire Center. If both Wire Centers defining a requested route are either Tier 1 or Tier 2 Wire Centers, then DS3 Dedicated Transport circuits on such routes are Declassified and no longer available as Section 251(c)(3) UNES under this Agreement. Accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering DS3 Section 251(c)(3) UNE Dedicated Transport on such route(s).

13.5.4 **Effect on Embedded Base.** Upon Declassification of DS1 Dedicated Transport or DS3 Dedicated Transport already purchased by CLEC as Section 251(c)(3) UNES under this Agreement, **SBC WISCONSIN** will provide written notice to CLEC of such Declassification, and proceed in accordance with Section 2.5 “Notice and Transition Procedure.”

13.5.5 Products provided by **SBC WISCONSIN** in conjunction with Section 251(c)(3) UNE DS1 or DS3 Dedicated Transport (e.g. Cross-Connects) shall also be subject to re-pricing under this Section and Section 2.5 “Notice and Transition Procedure” where such Transport is Declassified.

- 13.6 The Parties agree that activity by **SBC WISCONSIN** under Section 13.5 shall not be subject to the Network Disclosure Rules.
- 13.7 **Routine Network Modifications** – Section 251(c)(3) UNE Dedicated Transport
- 13.7.1 **SBC WISCONSIN** shall make routine network modifications to Section 251(c)(3) UNE Dedicated Transport facilities used by requesting Telecommunications Carriers where the requested Section 251(c)(3) UNE Dedicated Transport facilities have already been constructed. **SBC WISCONSIN** shall perform routine network modifications to Section 251(c)(3) UNE Dedicated Transport facilities in a nondiscriminatory fashion, without regard to whether the Section 251(c)(3) UNE Dedicated Transport facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier.
- 13.7.2 A routine network modification is an activity that **SBC WISCONSIN** regularly undertakes for its own customers. Routine network modifications include rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications do not include the installation of new aerial or buried cable for a requesting telecommunications carrier, and **SBC WISCONSIN** is not obligated to perform those activities for a requesting telecommunications carrier.
- 13.7.3 Routine network modifications do not include constructing new Section 251(c)(3) UNE Dedicated Transport; installing new cable; securing permits or rights-of-way; constructing and/or placing new manholes or conduits; or installing new terminals. **SBC WISCONSIN** is not obligated to perform those activities for a requesting telecommunications carrier.
- 13.7.4 **SBC WISCONSIN** shall determine whether and how to perform routine network modifications using the same network or outside plant engineering principles that would be applied in providing service to **SBC WISCONSIN**'s retail customers.
- 13.7.5 Notwithstanding anything to the contrary herein, **SBC WISCONSIN's** obligations with respect to routine network modifications apply only where the Dedicated Transport transmission facilities are subject to unbundling.
- 13.7.6 **SBC WISCONSIN** shall provide routine network modifications at the rates, terms and conditions set out in this Appendix **SBC WISCONSIN**, and in the state specific Appendix Pricing **SBC WISCONSIN** or by tariff, as such tariff may be modified from time to time **SBC WISCONSIN**. A rate for any routine network modification shown as "ICB" in Appendix Pricing or the applicable tariff indicates that the Parties have not negotiated, and/or that the State Commission has not reviewed and approved, a specific rate for that routine network modification. The ICB rate shall be determined on an individual case basis and shall reflect an engineering estimate of the actual costs of time and materials required to perform the routine network modification; provided, however, that the ICB rate shall not include any costs already recovered through existing, applicable recurring and non-recurring charges. The resulting ICB rates shall continue to apply to such routine network modifications unless and until the Parties negotiate specific rates for such routine network modifications or specific rates are otherwise established for such routine network modifications.

14. DEDICATED TRANSPORT DARK FIBER

- 14.1 Subject to Section 2 of this Appendix Section 251(c)(3) UNES, **SBC WISCONSIN** shall provide Section 251(c)(3) UNE Dedicated Transport Dark Fiber under the following terms and conditions in this subsection. **SBC WISCONSIN** is not required to provide Loop Dark Fiber on an unbundled basis. (For definitional purposes only, Loop Dark Fiber is fiber within an existing fiber optic cable that has not yet been activated through optronics to render it capable of carrying communications service.)

- 14.2 In **SBC WISCONSIN**, Dedicated Transport Dark Fiber is deployed, unlit optical fiber within **SBC WISCONSIN**'s network. Dedicated Transport Dark Fiber consists of unactivated optical interoffice transmission facilities. Other than as specifically set out elsewhere in this Agreement
- 14.3 Section 251(c)(3) UNE Dedicated Transport Dark Fiber
- 14.3.1 At dedicated transport dark fiber segments in routes that have not been Declassified, **SBC WISCONSIN** will provide a Section 251(c)(3) UNE Dedicated Transport Dark Fiber segment that is considered "spare" as defined in Sections 14.6 and 14.7 below. Section 251(c)(3) UNE Dedicated Transport Dark Fiber is defined as **SBC WISCONSIN** dark fiber interoffice transmission facilities dedicated to a particular CLEC that are within **SBC WISCONSIN**'s network, connecting **SBC WISCONSIN** switches or Wire Centers within a LATA. **SBC WISCONSIN** is not obligated to provide CLEC with unbundled access to Dedicated Transport that does not connect a pair of **SBC WISCONSIN** Wire Centers. **SBC WISCONSIN** will offer Section 251(c)(3) UNE Dedicated Transport Dark Fiber to CLEC when CLEC has Collocation space in each **SBC WISCONSIN** CO where the requested Section 251(c)(3) UNE Dedicated Transport Dark Fiber(s) terminate.
- 14.4 A "route" is defined as a transmission path between one of **SBC WISCONSIN**'s Wire Centers or switches and another of **SBC WISCONSIN**'s Wire Centers or switches. A route between two points (e.g., Wire Center of switch "A" and Wire Center or switch "Z") may pass through one or more intermediate Wire Centers or switches (e.g. Wire Center or switch "X"). Transmission paths between identical end points (e.g., Wire Center or switch "A" and Wire Center or switch "Z") are the same "route," irrespective of whether they pass through the same intermediate Wire Centers or switches, if any.
- 14.5 Spare Fiber Inventory Availability and Condition
- 14.5.1 All available spare Section 251(c)(3) UNE Dedicated Transport Dark Fiber will be provided as is. No conditioning will be offered. Spare dedicated transport dark fiber is fiber that can be spliced in all segments, point to point but not assigned, and spare dedicated transport dark fiber does not include maintenance spares, fibers set aside and documented for **SBC WISCONSIN**'s forecasted growth, defective fibers, or fibers subscribed to by other Telecommunications Carriers. CLEC will not obtain any more than 25% of the spare Section 251(c)(3) UNE Dedicated Transport Dark Fiber contained in the requested segment during any two-year period.
- 14.6 Determining Spare Fibers
- 14.6.1 **SBC WISCONSIN** will inventory dedicated transport dark fiber. Spare Dedicated Transport Dark Fiber does not include the following:
- 14.6.1.1 Maintenance spares. Maintenance spares shall be kept in inventory like a working fiber. Spare maintenance fibers are assigned as follows:
- 14.6.1.1.1 Cables with 24 fibers and less: two maintenance spare fibers
- 14.6.1.1.2 Cables with 36 and 48 fibers: four maintenance spare fibers
- 14.6.1.1.3 Cables with 72 and 96 fibers: eight maintenance spare fibers
- 14.6.1.1.4 Cables with 144 fibers: twelve maintenance spare fibers
- 14.6.1.1.5 Cables with 216 fibers: 18 maintenance spares
- 14.6.1.1.6 Cables with 288 fibers: 24 maintenance spares
- 14.6.1.1.7 Cables with 432 fibers: 36 maintenance spares
- 14.6.1.1.8 Cables with 864 fibers: 72 maintenance spares.
- 14.6.1.2 Defective fibers. Defective fibers, if any, will be deducted from the total number of spare dedicated transport dark fiber that would otherwise be available.
- 14.6.1.3 **SBC WISCONSIN** growth fibers. Fibers documented as reserved by **SBC WISCONSIN** for utilization for growth within the 12 month-period following the carrier's request.
- 14.6.2 The appropriate **SBC WISCONSIN** engineering organization will maintain records on each fiber optic cable for which CLECs request Section 251(c)(3) UNE Dedicated Transport Dark Fiber.

14.7 Quantities and Time Frames for ordering Section 251(c)(3) UNE Dedicated Transport Dark Fiber

14.7.1 The minimum number of Section 251(c)(3) UNE Dedicated Transport Dark Fiber strands that CLEC can order is one, and such strands must be ordered on a strand-by-strand basis. The maximum number of such strands that CLEC can order is no greater than 25% of the spare dedicated transport dark fiber in the segment requested. Should spare dedicated transport dark fiber fall below 8 strands in a given location, **SBC WISCONSIN** will provide no more than a quantity of 2 strands. (See definition of spare set forth in Section 14.6 above.)

14.7.2 If CLEC wishes to request Section 251(c)(3) UNE Dedicated Transport Dark Fiber, it must submit a dark fiber facility inquiry, providing CLEC's specific point to point (A to Z) dark fiber requirements. When CLEC submits a dark fiber facility inquiry appropriate rates for the inquiry will be charged as outlined in state specific Appendix Pricing.

14.7.2.1 If spare Section 251(c)(3) UNE Dedicated Transport Dark Fiber is available, as determined under this Agreement, **SBC WISCONSIN** will notify CLEC and CLEC may place an Access Service Request (ASR) for such fiber.

14.7.3 Section 251(c)(3) UNE Dedicated Transport Dark Fiber will be assigned to CLEC only when an ASR is processed. ASRs will be processed on a first-come-first-served basis. Inquiry facility checks do not serve to reserve Section 251(c)(3) UNE Dedicated Transport Dark Fiber. When CLEC submits the ASR, the ASR will be processed and the Section 251(c)(3) UNE Dedicated Transport Dark Fiber facilities will be assigned. The charges which will be established as set forth in Appendix Pricing will be applied.

14.8 Right of Revocation of Access to Section 251(c)(3) UNE Dedicated Transport Dark Fiber

14.8.1 Right of revocation of access to Section 251(c)(3) UNE Dedicated Transport Dark Fiber is distinguishable from Declassification as defined in Section 14.11 of this Appendix. For clarification purposes, **SBC WISCONSIN**'s right of revocation of access under this Section 14.8 applies even when the affected dedicated transport dark fiber remains a Section 251(c)(3) UNE, subject to unbundling obligations under Section 251(c)(3) of the Act, in which case CLEC's rights to the affected network element may be revoked as provided in this Section 14.8.

14.8.2 Should CLEC not utilize the fiber strand(s) subscribed to within the 12-month period following the date **SBC WISCONSIN** provided the fiber(s), **SBC WISCONSIN** may revoke CLEC's access to the Section 251(c)(3) UNE Dedicated Transport Dark Fiber and recover those fiber facilities and return them to **SBC WISCONSIN** inventory.

14.8.3 **SBC WISCONSIN** may reclaim from the CLEC the right to use Section 251(c)(3) UNE Dedicated Transport Dark Fiber, whether or not such fiber is being utilized by CLEC, upon twelve (12) months written notice to the CLEC. If the reclaimed Section 251(c)(3) UNE Dedicated Transport Dark Fiber is not otherwise Declassified during the notice period, **SBC WISCONSIN** will provide an alternative facility for the CLEC with the same bandwidth the CLEC was using prior to reclaiming the facility. **SBC WISCONSIN** must also demonstrate to the CLEC that the reclaimed dedicated transport dark fiber will be needed to meet **SBC WISCONSIN**'s bandwidth requirements within the 12 months following the revocation.

14.9 Access Methods specific to Section 251(c)(3) UNE Dedicated Transport Dark Fiber

14.9.1 The Demarcation Point for Section 251(c)(3) UNE Dedicated Transport Dark Fiber at Central Offices and End User premises will be in an **SBC WISCONSIN** approved splitter shelf. This arrangement allows for non-intrusive testing.

14.9.2 At CO's, Section 251(c)(3) UNE Dedicated Transport Dark Fiber terminates on a fiber distribution frame, or equivalent in the CO. CLEC access is provided via Collocation.

14.10 Installation and Maintenance for Section 251(c)(3) UNE Dedicated Transport Dark Fiber

14.10.1 **SBC WISCONSIN** will install demarcations and place the fiber jumpers from the fiber optic terminals to the Demarcation Point. CLEC will run its fiber jumpers from the Demarcation Point (1x2, 90-10 optical splitter) to the CLEC or End User equipment.

14.11 Dark Fiber Transport Declassification

14.11.1 **SBC WISCONSIN** shall provide CLEC with access to Section 251(c)(3) UNE Dedicated Transport Dark Fiber, except on routes where both Wire Centers defining the route are either Tier 1 or Tier 2 Wire Centers. As such **SBC WISCONSIN** must provide Section 251(c)(3) UNE Dedicated Transport Dark Fiber under this Agreement only if a Wire Center on either end of the requested route is a Tier 3 Wire Center. If both Wire Centers defining a requested route are either Tier 1 or Tier 2 Wire Centers, then Dedicated Transport Dark Fiber circuits on such routes are Declassified and no longer available as Section 251(c)(3) UNEs under this Agreement. Accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering Section 251(c)(3) UNE Dedicated Transport Dark Fiber on such route(s).

14.11.2 **Effect on Embedded Base.** Upon Declassification of Dedicated Transport Dark Fiber already purchased by CLEC as Section 251(c)(3) UNEs under this Agreement, **SBC WISCONSIN** will provide written notice to CLEC of such Declassification, and proceed in accordance with Section 2.5 "Notice and Transition Procedure," and at the end of the 30-day notice period under that Section, provision of the affected dedicated transport dark fiber to CLEC will be terminated without further obligation of **SBC WISCONSIN**.

14.11.3 Products provided by **SBC WISCONSIN** in conjunction with Section 251(c)(3) UNE Dedicated Transport Dark Fiber, if any, shall also be subject to termination under this Section 14.11 where such fiber is Declassified.

14.11.4 The Parties agree that activity by **SBC WISCONSIN** under this Section 14.11 shall not be subject to the Network Disclosure Rules.

14.12 Routine Network Modifications

14.12.1 **SBC WISCONSIN** shall make routine network modifications to Section 251(c)(3) UNE Dedicated Transport Dark Fiber used by requesting Telecommunications Carriers for the provision of Telecommunication Services where the requested Section 251(c)(3) UNE Dedicated Transport Dark Fiber facilities have already been constructed. **SBC WISCONSIN** shall perform routine network modifications to Section 251(c)(3) UNE Dedicated Transport Dark Fiber in a nondiscriminatory fashion, without regard to whether such fiber being accessed was constructed on behalf, or in accordance with the specifications, of any Telecommunications Carrier.

14.12.2 A routine network modification is an activity that **SBC WISCONSIN** regularly undertakes for its own customers. Routine network modifications do not include the installation of fiber for a requesting Telecommunications Carrier, nor do routine network modifications include the provision of electronics for the purpose of lighting dark fiber (*i.e.*, optronics), and **SBC WISCONSIN** is not obligated to perform those activities for a requesting Telecommunications Carrier.

14.12.3 Routine network modifications do not include constructing new Section 251(c)(3) UNE Dedicated Transport Dark Fiber; installing new cable; securing permits or rights-of-way; constructing and/or placing new manholes or conduits; or installing new terminals. **SBC WISCONSIN** is not obligated to perform those activities for a requesting telecommunications carrier.

14.12.4 **SBC WISCONSIN** shall determine whether and how to perform routine network modifications using the same network or outside plant engineering principles that would be applied in providing service to **SBC WISCONSIN**'s retail customers.

14.12.5 Notwithstanding anything to the contrary herein, **SBC WISCONSIN's** obligations with respect to routine network modifications apply only where the dark fiber transport transmission facilities are subject to unbundling.

14.12.6 SBC WISCONSIN shall provide routine network modifications at the rates, terms and conditions set out in the SBC WISCONSIN Appendix Pricing. A rate for any routine network modification shown as "ICB" in Appendix Pricing or the applicable tariff indicates that the Parties have not negotiated, and/or that the Wisconsin State Regulatory Commission has not reviewed and approved, a specific rate for that routine network modification. The ICB rate shall be determined on an individual case basis and shall reflect an engineering estimate of the actual costs of time and materials required to perform the routine network modification; provided, however, that the ICB rate shall not include any costs already recovered through existing, applicable recurring and non-recurring charges. The resulting ICB rates shall continue to apply to such routine network modifications unless and until the Parties negotiate specific rates for such routine network modifications or specific rates are otherwise established for such routine network modifications.

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16. 911 OR E911 DATABASE

16.1 Access to the SBC WISCONSIN 911 or E911 call related databases will be provided as described in the 911 Appendix.

17. OPERATIONS SUPPORT SYSTEMS FUNCTIONS

17.1 Operations Support Systems Functions consist of pre-ordering, ordering, provisioning, maintenance and repair, and billing functions supported by SBC WISCONSIN's databases and information. SBC WISCONSIN will provide CLEC access to its Operations Support Systems Functions as outlined in Appendix OSS – RESALE AND UNE

18. CROSS CONNECTS

18.1 SBC WISCONSIN shall provide Cross Connects under the following terms and conditions in this subsection. SBC WISCONSIN shall only be obligated to provide Cross Connects under this Appendix for purposes of permitting CLEC to connect SBC WISCONSIN Section 251(c)(3) UNE(s) to other Section 251(c)(3) UNE(s) or to CLEC's own facilities.

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18.3 . Pricing for SBC WISCONSIN is provided as set forth in Appendix Pricing.

18.4 The applicable Section 251(c)(3) UNE Loop Cross Connects to point of access for the purpose of CLEC combining a SBC WISCONSIN Section 251(c)(3) UNE Loop with another SBC WISCONSIN Section 251(c)(3) UNE are as follows:

18.4.1 2-Wire Analog Loop to Section 251(c)(3) UNE Connection Methods point of access

18.4.2 4-Wire Analog Loop to Section 251(c)(3) UNE Connection Methods point of access

18.4.3 2-Wire Digital Loop to Section 251(c)(3) UNE Connection Methods point of access

18.6 The applicable Cross Connect for SBC WISCONSIN Section 251(c)(3) UNE Loop is as follows:

18.6.1 2-Wire Analog

18.6.2 4-Wire Analog

18.6.3 DS-1

18.6.4 DS-3

18.6.5 DS-3 Loop to Collocation

18.6.6 2-Wire Digital

18.9 The applicable Cross Connect for **SBC WISCONSIN** Section 251(c)(3) UNE Dedicated Transport is as follows:

18.9.1 DS-1

18.9.2 DS-3

19. PROVISIONING/MAINTENANCE OF SECTION 251(C)(3) UNES

- 19.1 Access to Section 251(c)(3) UNES is provided under this Agreement over such routes, technologies, and facilities as **SBC WISCONSIN** may elect at its own discretion. **SBC WISCONSIN** will provide access to Section 251(c)(3) UNES where technically feasible. Where facilities and equipment are not available, **SBC WISCONSIN** shall not be required to provide Section 251(c)(3) UNES. However, CLEC may request and, to the extent required by law, **SBC WISCONSIN** may agree to provide Section 251(c)(3) UNES, through the Bona Fide Request (BFR) process.
- 19.2 Subject to the terms herein, **SBC WISCONSIN** is responsible only for the installation, operation and maintenance of the Section 251(c)(3) UNES it provides. **SBC WISCONSIN** is not otherwise responsible for the Telecommunications Services provided by CLEC through the use of those Section 251(c)(3) UNES.
- 19.3 Where Section 251(c)(3) UNES provided to CLEC are dedicated to a single End User, if such Section 251(c)(3) UNES are for any reason disconnected they shall be made available to **SBC WISCONSIN** for future provisioning needs, unless such Section 251(c)(3) UNE is disconnected in error. The CLEC agrees to relinquish control of any such Section 251(c)(3) UNE concurrent with the disconnection of a CLEC's End User's service.
- 19.4 CLEC shall make available at mutually agreeable times the Section 251(c)(3) UNES provided pursuant to this Appendix in order to permit **SBC WISCONSIN** to test and make adjustments appropriate for maintaining the Section 251(c)(3) UNES in satisfactory operating condition. No credit will be allowed for any interruptions involved during such testing and adjustments.
- 19.5 CLEC's use of any **SBC WISCONSIN** Section 251(c)(3) UNE, or of its own equipment or facilities in conjunction with any **SBC WISCONSIN** Section 251(c)(3) UNE, will not materially interfere with or impair service over any facilities of **SBC WISCONSIN**, its affiliated companies or its connecting and concurring carriers involved in its services, cause damage to their plant, impair the privacy of any communications carried over their facilities or create hazards to the employees of any of them or the public. Upon reasonable written notice and opportunity to cure, **SBC WISCONSIN** may discontinue or refuse service if CLEC violates this provision, provided that such termination of service will be limited to CLEC's use of the Section 251(c)(3) UNE(s) causing the violation.
- 19.6 When a **SBC WISCONSIN** provided tariffed or resold service is replaced by CLEC's facility-based service using any **SBC WISCONSIN** provided Section 251(c)(3) UNE(s), CLEC shall issue appropriate service requests, to both disconnect the existing service and order Section 251(c)(3) UNES. These requests will be processed by **SBC WISCONSIN**, and CLEC will be charged the applicable Section 251(c)(3) UNE service order charge(s), in addition to the recurring and nonrecurring charges for each individual Section 251(c)(3) UNE and cross connect ordered. Similarly, when an End User is served by one CLEC using **SBC WISCONSIN** provided Section 251(c)(3) UNES is converted to a different CLEC's service which also uses any **SBC WISCONSIN** provided Section 251(c)(3) UNE, the requesting CLEC shall issue appropriate service requests to both disconnect the existing service and connect new service to the requesting CLEC's End User. These requests will be processed by **SBC WISCONSIN** and the CLEC will be charged the applicable service order charge(s), in addition to the recurring and nonrecurring charges for each individual Section 251(c)(3) UNE and cross connect ordered.
- 19.7 CLEC shall connect equipment and facilities that are compatible with the **SBC WISCONSIN** Section 251(c)(3) UNES, and shall use Section 251(c)(3) UNES in accordance with the applicable regulatory standards and requirements referenced in this Agreement.

- 19.8 CLEC shall not combine or use Section 251(c)(3) UNEs in a manner that will undermine the ability of other Telecommunications Carriers to obtain access to Section 251(c)(3) unbundled network elements or to Interconnect with **SBC WISCONSIN**'s network.
- 19.8.1 **SBC WISCONSIN** shall charge the CLEC a Maintenance of Service Charge (MSC) when CLEC reports a suspected failure of a Section 251(c)(3) UNE and **SBC WISCONSIN** dispatches personnel to the End User's premises or an **SBC WISCONSIN** Central Office and trouble was not caused by **SBC WISCONSIN**'s facilities or equipment. Time and materials will include all technicians dispatched, including technicians dispatched to other locations for purposes of testing.
- 19.9 CLEC shall pay Time and Material charges when **SBC WISCONSIN** dispatches personnel and the trouble is in equipment or communications systems provided by an entity by other than **SBC WISCONSIN** or in detariffed CPE provided by **SBC WISCONSIN**, unless covered under a separate maintenance agreement.
- 19.10 CLEC shall pay Maintenance of Service charges when the trouble clearance did not otherwise require dispatch, but dispatch was requested for repair verification or cooperative testing, and the circuit did not exceed maintenance limits.
- 19.11 If CLEC issues a trouble report allowing **SBC WISCONSIN** access to End User's premises and **SBC WISCONSIN** personnel are dispatched but denied access to the premises, then Time and Material charges will apply for the period of time that **SBC WISCONSIN** personnel are dispatched. Subsequently, if **SBC WISCONSIN** personnel are allowed access to the premises, these charges will still apply.
- 19.12 Time and Material charges apply on a first and additional basis for each half-hour or fraction thereof. If more than one technician is dispatched in conjunction with the same trouble report, the total time for all technicians dispatched will be aggregated prior to the distribution of time between the "First Half Hour or Fraction Thereof" and "Each Additional Half Hour or Fraction Thereof" rate categories. Basic Time is work-related efforts of **SBC WISCONSIN** performed during normally scheduled working hours on a normally scheduled workday. Overtime is work-related efforts of **SBC WISCONSIN** performed on a normally scheduled workday, but outside of normally scheduled working hours. Premium Time is work related efforts of **SBC WISCONSIN** performed other than on a normally scheduled workday.
- 19.12.1 If CLEC requests or approves an **SBC WISCONSIN** technician to perform services in excess of or not otherwise contemplated by the nonrecurring charges herein, CLEC will pay Time and Material charges for any additional work to perform such services, including requests for installation or other work outside of normally scheduled working hours.
- 19.13 Maintenance of Elements
- 19.13.1 If trouble occurs with Section 251(c)(3) UNEs provided by **SBC WISCONSIN**, CLEC will first determine whether the trouble is in CLEC's own equipment and/or facilities or those of the End User. If CLEC determines the trouble is in **SBC WISCONSIN**'s equipment and/or facilities, CLEC will issue a trouble report to **SBC WISCONSIN**.
- 19.13.2 CLEC shall pay Time and Material charges (maintenance of service charges/additional labor charges) when CLEC reports a suspected failure of a Section 251(c)(3) UNE and **SBC WISCONSIN** dispatches personnel to the End User's premises or an **SBC WISCONSIN** Central Office and trouble was not caused by **SBC WISCONSIN**'s facilities or equipment. Time and Material charges will include all technicians dispatched, including technicians dispatched to other locations for purposes of testing.